June 13, 2013

The El Paso Central Appraisal District Board of Directors held a regular Meeting on Thursday, June 13, 2013, at 5:40 p.m., in the Conference Room of the El Paso Central Appraisal District at 5801 Trowbridge, with the following members present:

Rey Sepulveda, Chairman  Dee Margo
Patricia McLean, Secretary  Sergio Lewis
Ed Archuleta  Laure Searls
Gary Gandara

There was quorum, with seven members present. Ms. Carmen Hegeman, Legal Counsel was present for the entire meeting.

First order of business was to recite the pledge of Allegiance to the flag of the United States of America.

AGENDA ITEM I – APPROVAL AND SIGNING OF MINUTES FOR MAY 9, 2013

Ms. McLean made a motion to accept the May 9, 2013 minutes as presented. Mr. Gandara seconded the motion. Motion passed unanimously.

AGENDA ITEM 2 – EMPLOYEE RECOGNITION

Haydee Ceniceros of the Commercial Department was recognized for 20 years of service. Ms. Ceniceros was congratulated by the Board and all in attendance.

AGENDA ITEM 3 – PUBLIC COMMENT

No public comment was made.

AGENDA ITEM 4 – REVIEW IF FINANCIAL STATEMENTS – FEBRUARY, MARCH & APRIL, 2013

Ms. Rosa Goldmann, Chief Financial Officer, presented the February, March and April, 2013 Financial Statements. All financial statements are on file and a matter of record in the District’s accounting office.

Ms. Searls made a motion to approve the financial statements as presented. Ms. McLean seconded the motion. Motion passed unanimously.
AGENDA ITEM 5 – DISCUSSION & POSSIBLE ACTION FOR PERMISSION TO GO TO BID FOR BANKING DEPOSITORY

Ms. Kilgore advised that according to Section 6.09 of the Property Tax Code, the appraisal district must prepare a Request for Proposal (RFP) for a district depository. In the past EPCAD has gone out for 2 years and then with the Board’s permission that can be extended for another two years, this has been done for the last four years. Wells Fargo has been EPCAD’s banking depository since 2007. However, the Property Tax Code states appraisal districts must go out to bid at least every 4 years. Mr. Archuleta asked if EPCAD has a financial advisor that assists to evaluate the banking depositories. Ms. Kilgore replied only EPCAD’s Chief Financial Officer – Ms. Rosa Goldmann.

Ms. Searls made a motion to approve an RFP for the banking depository. Mr. Lewis seconded the motion. Motion passed unanimously.

AGENDA ITEM 6 – MONTHLY HEALTH BENEFITS USAGE REPORTS FOR MARCH, APRIL & MAY, 2013

Ms. Gabrielle Melendez, Human Resources Manager, presented the Health Benefit Usage Report for March, April and May, 2013. The Year-to-Date Loss Fund for March is $374,796.25 with the Year-To-Date Paid Subject to Loss Fund $325,211.57, with a positive balance of $49,584.68.

The Year-to-Date Loss Fund for April is $438,429.43 with the Year-To-Date Paid Subject to Loss Fund $395,044.59, and a positive balance of $43,384.84.

The Year-to-Date Loss Fund for May is $502,783.15 with the Year-To-Date Paid Subject to Loss Fund of $442,152.60 and a positive balance of $60,630.55.

AGENDA ITEM 7 – CHIEF APPRAISER REPORT

Correspondence - Ms. Kilgore distributed two letters to the Board—one from Joyce Wilson, City Manager and the other from Susan Combs, State Comptroller. The letter from Ms. Wilson contains some inaccuracies, i.e., that EPCAD had a 5 million dollar legal budget. If that were the case, EPCAD would have filed a law suit against Western Refinery. As approved by the EPCAD Board, the legal budget was set at $400,000.00. EPCAD was also asked by Ms. Wilson to certify at a lower value. Ms. Combs responded that Appraisal District Board of Directors are responsible for managing the district, hiring the chief appraiser, approving the annual budget and performing other statutory duties. The suggestion that was made to certify the lower value than market value is unworkable and would require the chief appraiser to breach her legal duties and ethical responsibilities. Therefore, these items were addressed by the Comptroller’s Office. Copies of letters are attached.

Ms. Kilgore said the Board has always known what was going on regarding this matter, therefore, Ms. Kilgore wanted the Board to be aware of this correspondence in its entirety. Ms.
Kilgore further stated that these legal issues started back in May of 2012, when it was discussed in Executive Session, which does not include the last meeting where a decision was made. All surpluses are given back at the end of the year. What may happen each September is that staff can go to the Board (which has been done in the past) and advise that there is a lawsuit etc., pending. And if possible the funds can be held to be used for a specific purpose. It is up to the Board to agree or disagree. If that was the case, it would have been done at the Board meeting in September. Therefore, there was nothing to go to the Board with and ask that funds be held back.

Mr. Archuleta asked that when a letter is received, such as from Ms. Wilson, are copies of the letters with a response sent to the other entities, so that they are aware. Ms. Kilgore responded yes. Mr. Archuleta also said that he and Mr. Margo had never seen this letter and Ms. Kilgore advised that this letter was sent to El Paso Independent School District, addressed to the Superintendent, as the refinery is in their district.

Mr. Sepulveda added that all members received an E-Mail with this instrument attached.

83rd LEGISLATURE – Ms. Kilgore advised that the bills are up for signature with the Governor. However, Ms. Kilgore went over a few things that may cause the appraisal district some expense or changes. Many of these changes affect the availability of electronic communication. This information is included in EPCAD's presentations from the IT, IS & R&D departments in order to show what we are doing electronically. It has been discussed in the past about having online protests, in addition to signing waivers online. The legislation that has already passed includes what EPCAD has already implemented.

Several staff members will be going to a legislative update during the first part of August and will meet with other appraisal district staff and attorneys to go over some of these issues and how to better address them. Regarding certified mail which has not been expanded by the law, EPCAD already implements this procedure, but on a limited basis. Therefore, this is another area we will be watching for possible changes.

Anything dealing with exemptions, i.e., veterans and veteran's spouses will go before the voters in November. Therefore, if the voters pass the legislation, the appraisal districts will address same. Changes will be noted in the exemption portion of notices. Spouses of veterans will be kept apprised of all changes, etc.

El Paso was one of the counties included in a 2009 pilot program that was set up whereby a property owner could appeal to the State Office of Administrative Hearings (SOAH); this legislation had many requirements. In this program there were only 3,000 that were allowed to be considered by SOAH and 99.9% were from Harris County (Houston) and the other from Dallas County. El Paso never had any property owner file under SOAH. Now, this procedure is opened up to all appraisal districts.
The changes regarding Appraisal Review Board (ARB) eligibility has to do with terms. Presently, an ARB member can serve three (3), two (2)-year terms for a total of 6 years in a lifetime. For districts over 100,000 (to be clarified by the attorneys) a member cannot serve the January 1 term immediately after their term expires. This means they can return two (2) years later and serve again. This also opens up into House Bill 585. House Bill 585 includes many changes. The biggest change will be for EPCAD's Board of Directors; the Board will no longer appoint the appraisal review board members. These appointments will come from a local district judge. The Taxpayer Liaison Officer will set up interviews with the judge. The Chief Appraiser and appraisal staff will no longer be allowed to be involved, other than for administrative duties.

This bill also addresses court fees. The County Judges organization has asked the governor to veto this bill. The Governor has until June 16th to veto, and we are waiting to see what will happen. Ms. Kilgore thinks it will add costs for the District because the liaison officer will have more hours of work and is paid on a daily basis as are the ARB members. The only compensation ARB members receive is a monetary amount ($150.00/day) with no benefits. Funds for whatever the judge decides will have to be implemented in all upcoming EPCAD budgets.

Another bill of importance is the Homestead Bill for which you have to have a driver’s license, vehicle registration and/or a utility bill which shows your address; the address on the document must match the physical address. Also legislation was passed which allowed peace officers to have a different address for security reasons on their driver's license – which meant they could not qualify for a Homestead exemption. In addition, there are states with big military towns that do not allow a soldier to change their driver's license, but are allowed to purchase a home where they are stationed for 3-4 years. The legislature went in and removed the requirement of vehicle registration and now allows peace officers as long appraisal districts receive a copy of the same documentation they use with Department of Public Safety (DPS) which will be granted.

Furthermore, the ARB will have the authority, after the property owner and EPCAD make a joint motion to go into a closed session to hear evidence that the property owner feels is confidential. This is something new and takes effect immediately. Because of the joint motion between the property owner and the appraisal district (or the owner’s agent) to ask the appraisal review board to go into a closed session, it can only be for discussion purposes as is done at the board meetings and then come out of closed session to take any action. All ARB meetings are open meetings and anyone may attend.

Another area that is going to change is the ¾ rule. The Upper Valley has a vote and the Lower Valley has two (2) votes. What they have done is to include Junior Community Colleges; they are allowed to have a vote, but they will be considered with the lowest revenue school district, which in EPCAD's case is Tornillo ISD. In November, letters are mailed out for the purpose of Board member reappointment. The entity can take no action (which means the appointee remains) or take nominations. As more changes are made available, the Board will be informed.
2013 PROTEST SEASON – The 2013 protest season is up and running. The majority of the notices are out. Notices were mailed only to those where the value increased, if the value was adjusted, and if it was a homestead.

All personal and commercial property received notices as they were reappraised. Historically, this is about 10% of the notices mailed (80,000). As of now there are about 18,000 protests that are being scheduled. ARB hearings have been held since April. The agents will start their hearings in mid-June; and 95% must be completed by July 20, so that certification can be completed. On July 25th the numbers are turned over to the entities. The process is running very smoothly.

Regarding evaluations from the public, this year EPCAD implemented two types of evaluations: one for EPCAD staff and one concerning the ARB. Each form has the option of English and/or Spanish. This form gives the property owner the chance to evaluate their visit to EPCAD.

As of June 7th, EPCAD has received an overall good and excellent rating of 97%. Those that were received as fair have been researched to see what the problem is. Generally the taxpayers in this category do not like the process, etc. One item the public does like are the new hours of Monday thru Thursday as it gives them better flexibility.

AGENDA ITEM 8 – TAXPAYER LIAISON REPORT

Ms. Tracy Carter, Taxpayer Liaison Officer, advised that she has received wonderful comments on EPCAD's employees, i.e., knowledgeable, efficient, professional and very kind. In addition, Ms. Carter also received good comments about the Appraisal Review Board (ARB), such as how they take their time to review the evidence and their fairness.

Taxpayers have raised concerns about the ARB using timers for the hearings. Taxpayers with commercial properties expressed they would like additional time for these properties. Ms. Carter offered to discuss this issue with the ARB Chairman.

Mr. Sepulveda said he was very pleased how Ms. Carter keeps the Board abreast of what is going on via her weekly e-mails.

AGENDA ITEM 9 – CANCELLATION OF JULY, 2013 BOARD OF DIRECTORS MEETING

Ms. Kilgore advised EPCAD is under time constraints to certify values under protest by July 25th. The Appraisal Review Board will turn over the numbers to us by July 20th. Section 6.04 of the Property Tax Code requires the board to meet quarterly, even though EPCAD schedules twelve meetings per year. This process needs to be completed on a timely basis and requires the majority of the staff's full attention to certify. Therefore, staff is requesting the July meeting be cancelled.

Ms. Searls made a motion to cancel the July meeting as requested. Mr. Gandara seconded
MINUTES PAGE 6
BOARD OF DIRECTORS
JUNE 13, 2013

the motion. Motion passed unanimously.

AGENDA ITEM 10 – DISCUSSION & POSSIBLE ACTION REGARDING EXECUTIVE SESSION UNDER THE AUTHORITY OF TEX.GOV'T, CODE § 551.071 AND 551.074 TO DISCUSS LEGAL AND PERSONNEL MATTERS

In accordance with the Open Meetings Act, TEX.GOV.CODE § 551.071 & § 551.074, the Board of Directors went into Executive Session at 6:24 to discuss legal and personnel matters. The Board returned to open session at 7:08 p.m. No action was taken in Executive Session.

A. EPT Dos Santos Apartments, LP vs EPCAD, Cause No. 2010TX952
B. 9211 Billy the Kid, LLC vs EPCAD, Cause No. 2011DTX01845
C. McClintock Self Storage Ltd., vs EPCAD, Cause No. 2011DTX01855
D. VP Zaraplez, LP vs EPCAD, Cause No. 2012DTX03708
E. Verde Paso Partners LP vs EPCAD, Cause No. 2012DTX03709
F. Laurel Canyon Development LLC, vs EPCAD, Cause No. 2011TX134
G. Wechter Family LP and Darakev Trust vs EPCAD, Cause No. 2011DTX02535
H. AMEX Properties LLC vs EPCAD, Cause No. 2012DTX03933
I. ASLM Limited vs EPCAD, Cause No. 2012DTX04007
J. Salvador Santa Ana and Maria T Santa Ana vs EPCAD, Cause No. 2012DTX03957
K. River Oaks Properties Ltd vs EPCAD, Cause No. 2012DTX03968
L. The Rachel V. Gabriel Living Trust vs EPCAD, Cause No. 2012DTX04051
M. Pep Boys, Manny Moe & Jack of California and Pep Boys, Manny Moe & Jack of Delaware, Neo Realty LLC vs EPCAD, Cause No. 2010TX141
N. Pep Boys, Manny Moe & Jack of California and Pep Boys, Manny Moe & Jack of Delaware Neo Realty LLC and Seab LP vs EPCAD, Cause No. 2011TX811Discussion

AGENDA ITEM 11 – DISCUSSION & POSSIBLE ACTION REGARDING A-N ABOVE

Ms. Searls made a motion to approve on the recommendation of legal counsel items A-N as shown above. Mr. Gandara seconded the motion. Motion passed unanimously.

There being no further business to come before the Board, the meeting was adjourned at 7:09 p.m.

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Reymundo Sepulveda, Chairman

ATTEST:

Patricia McLean, Secretary
May 6, 2013

Dinah L. Kilgore, RPA  
Executive Director/Chief Appraiser  
El Paso Central Appraisal District  
5801 Trowbridge Drive  
El Paso, TX 79925-3345

Re: Western Refinery Taxable Value, 2012-2013

Dear Ms. Kilgore,

In July, 2012, the Central Appraisal District (CAD) certified Western Refinery’s total taxable value at $745,349,000 representing a 278% increase over 2011’s value. We were assured by you and your staff that CAD was prepared to aggressively defend the value. As a result of the certified value in 2012, the City’s effective rate was artificially suppressed forcing us to publish notice of and adopt a tax increase for fiscal year 2013’s operations and debt service.

In April, 2013, the City of El Paso was advised of the settlement reached with Western Refinery for 2012 and 2013 taxable values. As a result of CAD’s settlement with Western Refinery, the City must now make adjustments adversely impacting services provided to citizens. Based upon the indefensible value certified by CAD for Western Refinery and subsequent settlement at $305,455,211, a 59% reduction in certified value, the City will lose $2,896,278 in revenue this year. The total adverse revenue impact to all taxing jurisdictions for FY 2013 is about $12 million. As a result, we are now faced with the need to cut nearly $3 million from city services within a four month time period.

We rely on the CAD for preliminary and certified tax rolls and need to have some confidence in the accuracy of these certifications for financial planning purposes. A variance of this nature is egregious and on the surface seems either irresponsible or incompetent. Per the City Council’s direction, I am filing a formal complaint with you, the CAD Board and State Comptroller and asking that immediate measures be taken to prevent this from happening again. Your budget provides about $.5 million for legal services annually which is seldom used I am told. I would...
recommend you pay for certified appraisals for these single large business entities to aid in your tax calculations, so you are better prepared to defend them if need be. If nothing else, it would provide you better information for purposes of certified values. Further, I am specifically requesting that in similar situations going forward where there is a protest over an unusually large valuation that will have significant adverse financial impact on taxing entities, that CAD certify a lower value (either the protestor’s valuation or the previous year’s valuation with a percentage increase using the average of the total valuation increase) and then reconcile at the time of settlement. At least under this scenario we would be able to plan without a huge adjustment that we cannot foresee that will likely impact the last quarter of the fiscal year.

I am asking the City’s representatives to the CAD Board that this issue be brought before the entire Board for discussion and action at the next available meeting and as part of the FY 2014 CAD budget review, so that it may be appropriately addressed.

Thank you for your attention to the above.

Sincerely,

Joyce Wilson
City Manager

cc: Mayor and City Council
    EPCAD Board of Directors
    Susan Combs, State Comptroller
May 15, 2013

Ms. Joyce Wilson
City Manager
City of El Paso
300 N. Campbell St.
El Paso, Texas 79901

Dear Ms. Wilson:

Thank you for sending a copy of your letter concerning the settlement of value litigation between Western Refinery and the El Paso Central Appraisal District. The settlement impacted your budget and tax rate significantly. I understand your concerns.

As you may know, complaints concerning ethical responsibilities of the chief appraiser must be filed with the Texas Department of Licensing and Regulation. The Comptroller’s office is not authorized to handle complaints concerning actions of chief appraisers, specific appraisal activities, lawsuit settlements or other matters related to the administration of the local property tax. The appraisal district board of directors is responsible for managing the district, hiring the chief appraiser, approving the annual budget and performing other statutory duties. I note that you have requested the board consider the settlement and its impact on El Paso at its next meeting.

You could request for the board of directors to provide more oversight of litigation settlements in ways that protect the interest of the local taxing units. The suggestion you made to certify a lower value than market value is unworkable and would require the chief appraiser to breach her legal duties and ethical responsibilities as an appraiser.

I hope your meeting with the board of directors of the appraisal district will be productive. If you have any questions, please contact the director of the Property Tax Assistance Division, Deborah Cartwright, at deborah.cartwright@cpa.state.tx.us or 1-512-936-4251.

Sincerely,

Susan Combs

cc: Dinah L. Kilgore, R.P.A., Chief Appraiser, El Paso Central Appraisal District
    Board of Directors, El Paso Central Appraisal District
    The Honorable John F. Cook, Mayor, City of El Paso
    Council Members, City of El Paso
    Deborah Cartwright