August 8, 2013

The El Paso Central Appraisal District Board of Directors held a regular Meeting on Thursday, August 8, 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
Patricia McLean, Secretary
Ed Archuleta
Sergio Lewis
Dee Margo
Ann Morgan Lilly
Cortney Niland
Laure Searls

There was quorum, with eight 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 JUNE 13, 2013

Mr. Archuleta made a motion to accept the June 13, 2013 minutes as presented. Ms. McLean seconded the motion. Motion passed unanimously.

AGENDA ITEM 2 – PUBLIC COMMENT

No public comment was made.

AGENDA ITEM 3 – PRESENTATION TO OUTGOING BOARD MEMBERS

Ms. Kilgore and Chairman Sepulveda presented plaques to outgoing members Isela Castaño-Williams and Alfredo Borrego, and thanked them for their past dedication and service to the EPCAD Board of Directors. In addition, they were also congratulated by the board members and those in attendance.

AGENDA ITEM 4 – REVIEW OF FINANCIAL STATEMENTS – MAY & JUNE, 2013

Ms. Rosa Goldmann, Chief Financial Officer, presented the May and June, 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.

Mr. Archuleta asked if the financial statements could be presented as a Power Point presentation. Ms. Kilgore said that everything that appears on the financial statement is available to the public and in addition is accessible on the EPCAD web site included with the minutes when approved. Mr. Archuleta said that in this day and age that he felt the financial information should be posted and summarized. Ms Kilgore said that EPCAD staff would look into this request.

Ms. Niland, a new member said she agreed that financials be a Power Point format. Ms. Niland asked what type of advertising does EPCAD do. Ms. Kilgore said that per state law, information concerning exemptions, the protest process season, release of notices which are required, etc., are advertised in the newspaper. EPCAD also does radio spots to keep the public apprised that the protest season has begun and to advise of certain deadlines, etc., which have to be met on a timely basis. Ms. Niland further would like to see a cost analysis of all the advertising, i.e., different methods. Ms. Kilgore reminded the board members that all advertising is budgeted.

Mr. Lewis felt that radio is a very good way to advertise and is not that expensive. Also, all EPCAD forms, deadlines, etc., are posted on the EPCAD website.

Ms. Kilgore advised that this request does not require a motion, only direction from the board to proceed.

AGENDA ITEM 5 – DISCUSSION & POSSIBLE ACTION REGARDING AWARD OF BANKING DEPOSITORY

Ms. Kilgore advised that this item was incorrectly placed on the agenda. In June, the Board approved EPCAD to go out for an RFP on the depository, something that has to be done by State law every two years and comes with a two year extension, which has been utilized.

The RFP was initiated, advertised in the newspaper two consecutive Sundays, July 7 and 14 and sent to five banks with a request from a sixth bank for an RFP to be mailed after reading the announcement in the paper. A total of three bids were received. Staff is presently reviewing the bids to make sure the information submitted meets the specifications and requirements as set forth by EPCAD and the State of Texas. Staff will present a recommendation at the September meeting.

Ms. McLean asked how is it determined which institutions will be contacted. Ms. Kilgore replied that these are the institutions who have contacted EPCAD in the past. In addition, these are the banking institutions approved in EPCAD’S banking policy.
AGENDA ITEM 6 – MONTHLY HEALTH BENEFITS USAGE REPORTS FOR JUNE & JULY, 2013

Ms. Gabrielle Melendez, Human Resource Manager, presented the Health Benefit Usage Report for June and July, 2013. The Year-to-Date Loss Fund for June is $568,015.11 with the Year-To-Date Paid Subject to Loss Fund $490,625.67, with a positive balance of $77,389.44.

The Year-to-Date Loss Fund for July is $633,607.34 with the Year-To-Date Paid Subject to Loss Fund was $546,605.43, and a positive balance of $87,001.91.

Mr. Margo asked if this plan was self-funded with a stop loss to which Ms. Melendez replied yes. Mr. Margo asked what the exposure was under the stop loss. The amount is $85,000.00.

AGENDA ITEM 7 – DISCUSSION & POSSIBLE ACTION REGARDING THE 2014 ESRI MAINTENANCE CONTRACT

Mr. David Stone advised that EPCAD is requesting the Board to renew the maintenance contract for EPCAD’s GIS software. The quote from ESRI is $26,700.00, and the amount budgeted is $29,900.00. This contract is for the upcoming fiscal year beginning October 1. Mr. Stone said this is a fairly routine item which is done yearly. The cost for 2012 was also $26,700.00. Ms. Niland asked if this item was put out to bid, for which Mr. Stone replied no. ESRI is the company that created the software. Mr. Archuleta asked if there was an overall contract utilized by the City and County. Mr. Stone stated every entity is separate. Mr. Archuleta additionally stated it would be nice if all the entities could share a contract. Mr. Archuleta suggested that perhaps EPCAD could look into the possibility of sharing, and if anyone else does this type maintenance. Mr. Stone said there is no one here in El Paso to do the maintenance.

Mr. Archuleta made a motion to approve the ESRI Maintenance Contract in the amount of $26,700.00 beginning October 1, 2013 for one year. Mr. Margo seconded the motion. Motion passed unanimously.

AGENDA ITEM 8 – CHIEF APPRAISER REPORT

2013 PROTEST SEASON – Ms. Kilgore informed the Board that the 2013 Protest Season is pretty much over. There were a little over 18,000 protests filed and 11,000 of that were from agents. The majority of the 11,000 were commercial properties. It was fairly equal when it came to resolved and unresolved, ARB and informal. EPCAD certified to all entities on a timely basis at 96.5%. Appraisal Districts are supposed to certify at 95%. The entities that saw the largest growth were Canutillo and Socorro with the remainder of the county stable. There was not a lot of major construction going on of large value, but there was a little bit of new construction to all of the entities. The customer service rating from the public was 98.6% - excellent/good rating. Evaluations that came in at below par were immediately reviewed for content. The bottom line was that the taxpayer who submitted the questionable evaluation did not like to pay taxes.
2014 APPRAISAL SEASON – Ms. Kilgore informed the Board that the 2014 appraisal season is underway with people in the field analyzing the data that was presented during the protest season. Months ago Ms. Kilgore spoke with the City Tax Assessor/Collector Dr. David Childs, about a service that could be done. Ms. Kilgore made a recommendation that if the City Tax Office would like to situate an off-site armored truck here at EPCAD to accept tax payments as they did in years past in the parking lot at the old City Hall, this could be done. Ms. Kilgore recommended that EPCAD’s front parking lot could accommodate the armored truck for a couple of days at the end of January. As the city has experience with the process, they are amenable to this. The logistics and legalities are in review. As in the past, cash will not be accepted, only checks, money orders, etc. EPCAD has participated in other efforts with the city, i.e., developing the City Tax Office queuing system and also one for animal services.

STAFF EDUCATION – Regarding the Board of Directors, Mr. Robert Mott or Mr. Joe Longoria, legal counsel, can present an updated training for the Board of Directors. Ms. Kilgore suggested this training could be done in September prior to the meeting, as part of the regular meeting agenda, or as a separate agenda. Ms. Kilgore will meet with Mr. Sepulveda to coordinate this training.

Concerning EPCAD appraisers, EPCAD will host the Law & Rules Update seminar presented by the Texas Association of Appraisal Districts (TAAD) on August 16, 2013. In September, EPCAD will host three courses – Property Tax Law, Mass Appraisal Concepts and Personal Property Appraisal; these courses are mandatory toward their certification. These courses are open to appraisers from other entities, such as Brewster and Hudspeth counties. Additional courses will be scheduled after the first of 2014.

Ms. Kilgore reminded the Board that she is available to speak at community meetings or organizations in El Paso.

Mr. Margo posed a question about the Comptroller’s assessment of the values and the difference. He asked how they arrived at their estimation of the property values in El Paso. Ms. Kilgore replied that when they do property values studies in El Paso they look at sales and because the sales in Texas are so limited, they do their own appraisals. Ms. Kilgore went on to say that EPCAD has met the confidence level in all school districts. When they do an overall review, they look at different categories; i.e., residential, rural, vacant land, commercial, business personal property and utilities. After doing a random sampling of all categories, EPCAD has met the confidence level of the 95% in all categories. What EPCAD has found in the last three years or so is that commercial properties in the three larger school districts come in at a lower amount, since the other values are high enough – right on at 100%, the confidence levels are met. In essence, that shows that EPCAD needs to keep working to make it tighter in certain categories and certain school districts. All nine school districts passed. In an effort to understand the process Mr. Margo used the example of EPISD. If EPISD hires a law firm to argue the comptroller’s values so they are not restricted on state funds, which is predicated on the Comptroller’s valuations and what the EPCAD comes in for EPISD -- why is there that delta? In addition, to reducing EPISD’s revenues, the school district has to hire an attorney to fight the Comptroller to agree to some offset. Ms. Kilgore responded there is a law firm for several school districts that assists with this and there is a lot to do with the changes of the certified
values. Property owners are still entitled to come before a Appraisal Review Board under a clerical error or omitted property year round. Ms. Kilgore said her understanding is that the law firm goes in takes into consideration the changes that the Comptroller makes.

Mr. Margo said he knows what is being done to argue the point to try and reduce the delta, however, Mr. Margo wants to know why the delta exists. Mr. Stone, Assistant Chief Appraiser said that one of the main reasons the delta exists is because the Comptroller does not have the resources to do the same kind of analysis that EPCAD does. Their analysis is usually more superficial because what they did this past year is send a team of five people into the county and they each were assigned their own separate area. They take a random sample, for which they have actual information such as sales or income information that they can use to make an appraisal or they do their own appraisal based on a cost analysis, which is usually superficial. What usually happens, this is statewide not just El Paso County, the state values always come in higher than the local values. Then what the local entities have to do is prove what the errors were that the State made when they were doing their analysis. Usually, they get a sale and it turns out it was not an arm’s length transaction, therefore, that sale is not a valid sale that would normally be used or perhaps the sample they took was not a true random sample.

What they like to do is take the sales that they have. Mr. Stone continued that if the sales are not evenly spread out in the area, it is not a true random sample. When the State had only one appraiser assigned to El Paso, all they did is take samples along main streets like Dyer and Montana. They did not do the whole county therefore, the sample was not a random sample, which EPCAD had to fight. Mr. Margo reiterated questionably, EPCAD had to fight it?

Mr. Stone stated that the appraisal district assists the law firm. Ms. Kilgore explained that when EPCAD receives the Property Value Study report from the Comptroller’s Office in which EPCAD does not meet the confidence level, then EPCAD, as an appraisal district, will submit evidence and data to get them to change the ratio with the evidence that EPCAD has. The appraisal district has actually gone to the State to protest and battle it out. If EPCAD is within the confidence level, the appraisal district does not protest the report because we have given the information that the school district has met the confidence level. The school district’s attorney will look into it with more detail. Mr. Margo inquired what the definition was of confidence level. Ms. Kilgore replied that confidence level is 95-105%. Mr. Stone added that is a ratio of what the values are to what the Comptroller thinks they should be. Ms. Kilgore added that when EPCAD hits 95%, the appraisal will not go any further, however, the school district can. Mr. Margo reiterated that we (the district) is within 95% of where the Comptroller says we should be.

Mr. Stone said there are two reasons to protest the Comptroller's values. The first reason is if the District thinks the Comptroller made an error in their appraisal, i.e., under the confidence interval then that puts the school districts in funding jeopardy. If there is an issue in that respect that the CAD does not make the confidence level then the CAD will protest and will assist the law firm. The other issue is all the school districts in El Paso County are low property value districts. The school districts receive money from the State Comptroller’s Office to make up for
the deficiency in the funding that is received from the local property taxes. When the property values become certified in July, the CAD is at a certain level of value. All year long that level is decreasing because people are coming back and filing motions to correct properties or filing lawsuits because they want the property's value lowered. The value is decreasing that whole time. The law firm goes through the administrative procedures that the Comptroller's Office has to re-submit new values; because the property value is 30 billion on July 25th when the CAD certified and now it is only 29 billion, a loss of 1 billion dollars in property tax value, which will affect your funding. Therefore, the law firm will file the paperwork that will go through to the TEA eventually and the TEA says okay you didn't get 30 billion dollars' worth of property tax value, you only had 29 billion, and therefore we will make up from 29 billion. This is usually a two stage process. In March you filed your appeal with the Comptroller's Office, which is the first opportunity to re-state values, which is also what the law firm does. CAD is usually in the confidence interval, but once in a while it is not. If not, the CAD will fight it. If the CAD is in the confidence interval, the law firm will just re-file the new totals. These are our new values for the year, then they will come back in September or October and re-file again because of the continued effect on the roll—which is called an audit. Mr. Stone said he believes an audit can be filed two or three times. Like Western Refinery, when EPISD appealed in March the Western Refinery value for 2012 was not set. Therefore, there was a loss of value from the settlement of Western Refinery. In September the law firm will again file with the State. Mr. Margo stated he does not understand why EPISD has to litigate, when they have a loss and have to pay a law firm to litigate for the school district. Ms. Kilgore added that as an appraisal district, EPCAD can only file a protest once a year, whereas the school districts are allowed to attempt this several times a year. Mr. Stone continued that although the process of refilling is involved, the re-submission of numbers still benefits the school districts.

Mr. Lewis commented that the State rules are a bureaucratic process. Mr. Stone added that the rules in place by the State Comptroller have increasingly become more formal and bureaucratic over recent years.

Mr. Lewis inquired what can be done for the school districts to make this process better.

Ms. Niland questioned how sales information can be used, when Texas is a non-disclosure State. Ms. Kilgore answered by stating CAD sends out a questionnaire to every seller and buyer in hopes of receiving the necessary information. Unfortunately the return on these questionnaires is less than 1%. The sales information CAD secures is during a protest procedure. The Comptroller's Office also sends out questionnaires, to which taxpayers reply to more readily than the ones from CADS.

Mr. Sepulveda requested that the Board Members please e-mail him their time preferences for the Board's orientation by the attorneys.

Mr. Archuleta asked if the board members will be provided a report of remarks made during this meeting? Ms. Kilgore said she would prepare a brief report for the members.
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 6:40 to discuss legal and personnel matters. The Board returned to open session at 7:49 p.m. No action was taken in Executive Session.

A. JTC Stores LLC, (Howdy's Mini-Marts Convenience Stores) vs EPCAD, Cause No. 2012DTX03645
B. Valero Energy Corp. DBA Big Diamond, Inc. (Diamond Shamrock Convenience Stores vs/ EPCAD, Cause No. 2012DTX03757
C. Dillard Texas Central, LLC vs EPCAD, Cause No. 2012DTX03756
D. Dillard Texas Central, LLC vs EPCAD, Cause No. 2012DTX03885
E. Summit Hotel Properties LLC and Summit Hotel OP LP (Hampton Inn & Suites and Courtyard El Paso Airport) vs EPCAD, Cause No. 2012DTX03982
F. Prologis Prologis NA2 Texas LLC, Prologis NAPF 1 LLC, Prologis Texas 1 LLC, & Prologis Texas III LLC (Billy the Kid Distribution Center #1 Vista Corp Ctr #5, Northwestern Corp Ctr #1 #3, #9, #13, #14, & #17 and Vista Del Sol Ind Ctr #3 & #9, and Vista Del Sol Ind Ctr III #1) vs EPCAD, Cause No. 2011DTX02776
G. BRE/LQ Properties LP, (LA Quinta Hotels #165, #452,#507, #596, #4034, and #4035) vs EPCAD, Cause No. 2012DTX03989
H. Price's Creameries Division of Creamland Dairies and Dreamland Dairies, Inc., vs EPCAD, Cause No. 2009TX1194
K. Trujillo Enterprises Ltd., vs EPCAD, Cause No. 2012DTX03736
L. Sierra Providence Physical Rehabilitation Hospital vs EPCAD, cause No. 2012DTX03883
M. Steve Forti vs EPCAD, Cause No. 2012DTX03978
N. Distinctive Neighborhoods LP vs EPCAD, Cause No. 2012DTX04054
O. Dick James Group LP vs EPCAD, Cause No. 2011DTX00383
P. Dick James Group LP vs EPCAD, Cause No. 2012DTX03721
Q. Pellicano X57-000-3180-4000
R. Mesilla Valley Transportation O655-999-1033-1042

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

Ms. Searls made a motion to ratify Item A, approve items B-P and approve intent to file suit on items Q and R on the recommendation of legal counsel. Ms. Niland seconded the motion. Motion passed unanimously.

There being no further business to come before the Board, the meeting was adjourned at 7:50 p.m.
ATTEST:

Reymundo Sepulveda, Chairman

Patricia McLean, Secretary