

**MINUTES OF THE OCTOBER 30, 2018 SPECIAL MEETING OF THE  
HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 9**

A meeting was duly called of **HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 9**, which was held on October 30, 2018, at the administrative offices of the District which are located at 9630 Telge Drive, Houston, Texas 77095.

The meeting was called to order at 6:00 p.m., by **TOMMY BALEZ**, President. Other Commissioners present at the meeting include **BOB JANUSAITIS**, **DAVID LANGENBERG** and **SCOTT DEBOER**. Commissioner **JESSICA RIVAS** was not in attendance when the meeting was first called to order, but she joined the meeting at 6:40 p.m. Also present at some points during the meeting were **AMY RAMON**, Fire Chief, of the Cy-Fair Volunteer Fire Department (the "Department"), **TIMOTHY GIBSON**, Managing Director of the District, **IRA A. COVELER**, of Coveler & Peeler, and **JOHN W. PEELER**, of Coveler & Peeler P.C., the District's Legal Counsel.

The Board then entered Closed Session under item 2 of the agenda, consultation with legal counsel at 6:04 p.m. The Board returned to Open Session at 6:14 p.m.

When Mr. **BALEZ** announced that the Board intended to enter closed session under item 3 of the agenda to deliberate regarding personnel matters, Mr. Gibson asked that any discussion regarding his employment be conducted in open session as he intended to record the discussion. Mr. Coveler had previously explained that Mr. Gibson had asked for the meeting to be held in open session, but Mr. **BALEZ** wanted to give Mr. Gibson one last opportunity to allow his personnel matters to be discussed privately. Mr. Coveler stated that he had stated to Mr. Gibson prior to the meeting commencing that it was his right to require that the meeting be held in open session, but that the Board had intended to conduct its discussion regarding personnel matters related to Mr. Gibson in closed session to avoid any embarrassment to Mr. Gibson related to his employment deficiencies. Mr. Gibson had requested of Mr. Coveler prior to the meeting commencing that Mr. Gibson be permitted to record the closed session portion of the meeting. Mr. Coveler stated that the Board would not allow closed session to be recorded.

The Board ultimately acquiesced to Mr. Gibson's request and conducted the personnel discussion regarding Mr. Gibson in open session. Mr. Coveler summarized the recent tax adoption issue caused by Mr. Gibson's failure to verify that meeting notice had been properly posted.

Mr. Coveler stated that Ms. Deirdra Wine of Coveler & Peeler, P.C., the secretary to Mr. Coveler, had emailed the meeting notice for the tax rate adoption meeting to Ms. Karina

Martinez (Office Manager for Harris County Emergency Services District No. 9) and Mr. Gibson on Monday, October 15, 2018. The meeting notice needed to be posted on the front door of the administrative offices of the District which are located at 9630 Telge Drive, Houston, Texas 77095. This was a normal practice for the notices to be emailed to both Ms. Martinez and Mr. Gibson for posting. The meeting notices were never posted at the Administration Building.

The read receipt for the email from Ms. Wine to Mr. Gibson is attached to these minutes. Mr. Coveler explained that while Ms. Martinez had replied to the email that the meeting notice was posted, it had not been posted on the exterior door of the District Administrative Office. Ms. Martinez had posted the meeting notice on the District's website. Mr. Gibson knew that Ms. Martinez was not physically at the District Administrative Office to post the meeting notices. Notwithstanding that Ms. Martinez was not at work that day, Mr. Gibson did not personally post the October 18, 2018 meeting notice on the exterior door of the District Administrative Office. Mr. Gibson did not personally verify whether anyone had posted the October 18, 2018, meeting notice on the exterior door of the District Administrative Office.

The day after it was discovered that the meeting notice had not been posted, Mr. Gibson sent the following email to the all of the District commissioners and Mr. Coveler on Friday, October 19, 2018, at 9:28 a.m.

*"I want to make sure that all of you know that I take full responsibility for the failure to make sure the meeting notice was placed on Monday. Karina was out of the office on for court and I did not post it and on Tuesday morning neither of us made sure it happened. While the website and Facebook were updated on Monday by Karina from court, this is on me."*

*"I've made the appropriate mandate and process change to make sure we do not have this ever happen again. I do understand your time is very valuable and this will require more of your time to rectify our error, but rest assured I will not allow this to happen again."*

The referenced email from Mr. Gibson is attached to these minutes.

The failure to post the notice as required by Texas law, resulted in a severe and irreparable penalty to the District. Mr. Coveler explained that the tax setting deadlines in Texas were very strict and that no deviation in the law is permitted. Any tax rate in excess of the lower of (1) the prior year's tax rate or (2) the current year's Effective Tax Rate MUST be adopted no later than 5:00 p.m., on Friday, October 19, 2018. As the discovery of the failed posting was not discovered until Thursday, October 18, 2018, it was impossible to re-post the notice in accordance with Texas law in time to meet the tax setting deadline.

Mr. Coveler explained that the proposed 2018 tax rate of \$0.600/\$100 would have generated estimated *ad valorem* tax revenue of \$23,274,239. Mr. Coveler said that by being forced

by operation of law to adopt the 2017 rate of \$0.052710/\$100 the District would collect *ad valorem* taxes of approximately \$20,446,419, which is \$2,827,820 less than the proposed tax rate would generate. The failure to post the meeting notice had cost the District \$2,827,820 and worse deprived the Board of its power and ability to exercise its own discretion in setting the tax rate. The Board was powerless to set a lower tax rate for its citizens, if it so chose, and it was powerless to adopt a rate in excess of the 2017 tax rate. For 2017, Mr. Gibson unilaterally set the tax rate for the District.

In response to the meeting agenda issue, Mr. Gibson replied that the notice posting issue should not result in his termination. He stated that the Board had approved his vacation which took place immediately prior to the posting deadline. He also stated that the posting of meeting notices was not specified in his contract as a required task of him. Finally, he stated that meetings are sometimes held at irregular intervals.

At this point in the meeting, Mr. Coveler reminded the Board that no decision to terminate Mr. Gibson for cause had been made, and that Mr. **BALEZ** had instructed him to prepare a special meeting notice in order to consider Mr. Gibson's employment status with the District.

Mr. Coveler next identified to the Board that he and others had received an email from Mr. Gibson on the first work day following Mr. Gibson's return from vacation, which would have been October 15, 2018, wherein Mr. Gibson had written at 10:03 a.m.:

*"Just a reminder, the regularly scheduled business meeting of ESD 9 will be this Thursday at 6:00pm."*

The referenced email from Mr. Gibson is attached to these minutes.

Mr. **LANGENBERG** stated to the Board that Mr. Gibson had performed extremely poorly and deserved to be punished for his failures, stating that the Board must determine if the level of action deserves termination or some alternate punishment.

Mr. **DEBOER** and other Commissioners shared that this was not a single-issue termination. Mr. **DEBOER** specifically stated that there were a number of problems and that this was the "straw that broke the camel's back". Mr. **DEBOER** had personal knowledge that Mr. Gibson had been searching for a new job to replace the full-time job he had with the District. He further shared that Mr. Gibson's job search was being conducted during normal working hours of the District and that Mr. Gibson had gone on job interviews or to meet with perspective employers and drove to these meetings in the District's vehicle, which is labeled as a District vehicle.

Further, Mr. **DEBOER** stated that on a disproportionate number of occasions, Mr. Gibson was engaged in personal calls with his family and perhaps other persons as well during meetings with Mr. **DEBOER**. Mr. **DEBOER** shared that while tending to family matters was certainly a necessity and an important privilege permitted to employees, the number and length of the calls was excessive in relation to the relatively few times Mr. **DEBOER** had been able to meet with Mr. Gibson. Mr. **DEBOER** also shared that frequently Mr. Gibson's whereabouts were unknown when Mr. **DEBOER** visited Mr. Gibson's office to visit with him.

Mr. **LANGENBERG** questioned whether the items presented by Mr. **DEBOER** were enough to justify termination of Mr. Gibson or if Gibson had received adequate instruction on his duties.

Finally, Mr. **DEBOER** recalled an instance when Fire Chief Amy Ramon, David Manley (President of the Department), Mr. Coveler and Mr. **DEBOER** were having a committee meeting at the Administration Building. Ms. **RIVAS** had still not received her District cell phone or her District provided tablet computer. Obtaining these items and having them setup for Ms. **RIVAS**'s use had been tasked to Mr. Gibson to coordinate. This task had been lingering for many weeks and Ms. **RIVAS** did not have a convenient and reliable means of receiving her District email. Mr. Gibson was called while the committee meeting was ongoing to determine the status of Ms. **RIVAS**'s District cell phone and District provided tablet computer. It was after 6:00 p.m., and Mr. Gibson did answer the phone. Mr. Gibson stated that he had both the cell phone and the tablet computer in his office. Ms. **RIVAS** asked for those items and he stated that his office door was locked and no one else had a key to the office. It was stated to Mr. Gibson that these items were needed. He stated that he was not far from the Administration Building and would give the cell phone and tablet computer to Commissioner **RIVAS**. When Mr. Gibson arrived, he walked into the meeting room without knocking, dropped the cell phone and tablet computer on a table next to Commissioner **RIVAS**, turned around, walked out of the room and slammed the door. Mr. Gibson never spoke a word.

At this point in time, President **BALEZ** reminded the Board about Mr. Gibson's failure to obtain facility insurance (property insurance) for the recently completed fire stations. Mr. Gibson stated that he believed the stations were included on the District's insurance policies. He stated that he had an email regarding the insurance being placed.

Commissioner **RIVAS** had just arrived at this point in the meeting.

The Board briefly recessed the meeting from 6:34 p.m., to 6:41 p.m., so Ms. **RIVAS** could get settled and Mr. Gibson could retrieve evidence of the property insurance and the email related to same.

Commissioner **RIVAS** joined the meeting when it resumed at 6:41.

The Board resumed discussions regarding Mr. Gibson's performance. Mr. Gibson stated that the VFIS representative had told him that the new station was on the CFVFD policy, though he admitted he had not received the policies in question, nor had he received a declaration page of the coverages. The email that Mr. Gibson produced did not indicate that insurance coverage had been placed for any of the new District fire stations.

The Board generally discussed all of the identified issues as well as the recent tax setting issues. Mr. **DEBOER** shared that it was his belief that Mr. Gibson generally shows no respect for the Board or his duties and reiterated that Mr. Gibson was known to be looking for a new job prior to the errors and failures related to the tax setting meeting notices.

The Board re-entered closed session under item 2 of the agenda, consultation with legal counsel at 7:01 p.m. and reconvened in open session at 7:18 p.m.

The Board then addressed item 4, action on personnel matters. Ms. **RIVAS** made a motion to terminate Mr. Timothy Gibson's employment with the District. Mr. **DEBOER** seconded the motion. After discussion, Motion was approved by a vote of 4 to 0 with Mr. **JANUSAITIS** abstaining.

The Board then re-entered closed session under item 2 of the agenda, consultation with legal counsel regarding a Public Information Act issue at 7:20 p.m.

Ms. **RIVAS** and Mr. **BALEZ** exited the closed session portion of the meeting at 7:31 p.m.

The Board reconvened in open session at 7:40.

When the Board exited closed session, Mr. **JANUSAITIS** assumed the chair of the meeting.

There being no further business brought before the Board nor any further public comment, Mr. **LANGENBERG** made a motion, seconded by Mr. **DEBOER**, to adjourn the meeting. Mr. **JANUSAITIS** adjourned the meeting at 7:41 p.m.

  
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**DAVID LANGENBERG**  
District Secretary