

**SH130 MUNICIPAL MANAGEMENT DISTRICT NO. 1**  
201 W. 5<sup>th</sup> Street, Suite 1350  
Austin, Texas 78701

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**Minutes of Regular Meeting**  
**of**  
**The Board of Directors of SH130 Municipal Management District No. 1**

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THE STATE OF TEXAS §

COUNTY OF TRAVIS §

SH130 MUNICIPAL MANAGEMENT DISTRICT NO. 1 §

The Board of Directors (“**Board**”) of SH130 Municipal Management District No. 1 (“**District**”) met in a regular session, open to the public, on August 21, 2024, at 100 Congress Avenue, 11th Floor, Austin, Texas 78701, a designated office of the District outside the boundaries of the District. Mike Krusee, Chairperson of the Board of Directors, called the meeting to order at or about 1:32 p.m.

The following members of the Board were present at the meeting: Mike Krusee; Albert Hawkins; Austin Talley; and Robert Walker. One Board seat is vacant, however all current Directors were present and a quorum was had. All four current Directors were present at each time a vote was taken, and had an opportunity to vote on all items that came before the Board during the meeting.

Also present at the meeting were the following persons:

- District staff Aundre Dukes, Tim Alcott, Kristinn Massay, Candice Salazar, and Kerry Joiner;
- Hayes Innovation Center for Advanced Manufacturing (“**HICAM**”) representatives Marcus Metzger and Jon Hockenyos, and their guests Tyler Ostby and Heather Rees of Juice Consulting;
- Jim Carpenter, a landowner within the District, Ty Cunningham, a real estate consultant, and Felix Zayas and Vance McMurry of the Emerald Island project;
- Kristina Hayes, a landowner within the District (via Zoom);
- Scott Brymer, a real estate developer with interests in the District;
- Attorneys Emilio B. Nicolas, Bill Venema, and Jennifer Freel, and paralegals Stephanie Sanchez and Tracey Green of Jackson Walker L.L.P. (“**Jackson Walker**”), legal counsel for the District; and
- Attorney Andrew Johnson of Johnson Petrov, LLP, legal counsel for the District.

References herein to “*Agenda Item No.*” refer to the corresponding agenda item number set forth in the meeting’s *Public Notice of Regular Meeting of the Board of Directors of SH130 Municipal Management District No. 1* dated August 15, 2024.

Prior to discussion on any item on the scheduled Agenda, Mr. Zayas and a camera operator began setting up tripods and video equipment in the conference room with an intention to record the meeting. Discussion was had by the Board, Jim Carpenter, and attorneys for the District on the propriety of this step, which had not been approved by the Board prior to the meeting, but was privately arranged by Mr. Carpenter. Mr. Nicolas advised the Board that it should vote on whether they wished to authorize a video recording of the meeting. Director Walker objected to the recording, as he believed a written record was more appropriate and the set up and filming a distraction to the meeting. Director Talley also objected to the video recording. Directors Hawkins and Krusee did not object to the video recording. Thus, without majority approval of the Board, the video recording was not allowed to proceed.

1. With regard to Agenda Item No. 3: Mr. Alcott called for public comments. In response, Mr. Brymer stood and addressed the Board. Mr. Brymer introduced himself as a real estate developer who had been involved with the District at its earliest stage, originally with Warren Hayes and Texas Essential Housing. He advised the Board that he had made a four-hour flight to attend the meeting in person because he had many serious concerns. Mr. Brymer defined his personal investment in the District, and another sixty million dollars in investor money, as the primary source of his concerns, because he believed those investments were at risk. He went on to describe his own opinions about the Board: that the Board was not doing its job; and the Board was disliked by both the industry and the legislature, making enemies all around. Mr. Brymer then urged the Board to deliver the tax exemption he was promised, and to reassure him that his concerns would be addressed. If not, he advised the Board he would leave the project and would influence other investors to also leave.

Next, Mr. Carpenter addressed the Board, first saying that he wished to echo Mr. Brymer’s comments. He further advised the Board that he believes his Emerald Island project will make Austin a nationwide capitol of entertainment and hospitality that would draw world-class resorts to the city, and is the kind of art and entertainment venture that the State of Texas has wanted for many years. He expressed his own anger and frustration at the Board because he feels threatened that his land will be taken out of the District. Mr. Carpenter accused the Board of engaging in behavior that could destroy an otherwise high net worth project opportunity.

Mr. Carpenter then stressed to the Board his preference that Mr. Cunningham be appointed to fill the vacant Board seat. He asked the Board to consider Mr. Cunningham’s education, his previous involvement with districts of this type, and his particular experience with multi-family and affordable housing projects, commercial real estate, and leasing. He emphasized his own confidence in Mr. Cunningham’s character and integrity.

Next, Mrs. Hayes addressed the Board. On her own behalf, and for her late spouse, Warren Hayes, Mrs. Hayes thanked the Board for their continued commitment and service to the District. She summarized her plans to develop land in the district and to seek reimbursement. Finally, she expressed her disappointment regarding a recent conversation she had with Mr. Carpenter, which she described as adversarial and accusatory, and voiced that she wanted such behavior to stop.

There being no other public comments, the Board progressed to the next agenda item.

2. With regard to Agenda Item No. 4: The Board was presented with the minutes of the regular meeting of the Board held on July 17, 2024, and the minutes of the special meeting of the Board held on August 5, 2024.

Prior to a vote on both sets of minutes, Director Krusee expressed his concerns regarding the subjectivity of a part of the record made after the conclusion of the executive session for the July 17 meeting, specifically, the comments of Director Walker set forth in the following text in the third paragraph of section 7(B) of the minutes, near the bottom of page 5: “Director Walker advised the Board that the governance documents were sorely needed, and voiced his disappointment that the Board did not demonstrate immediate consensus on the adoption of the Internal Governing Documents.” Director Krusee objected to the text and asked that it be stricken. Director Krusee further explained to the Board that, in his recollection, a variety of comments were made concerning the approval of the internal governance documents, but only Director Walker’s remarks and point of view were recorded in the aforementioned part of the July 17 minutes.

Further, with regard to section 5(D) of the minutes of the July 17 meeting, found near the top of page 4 of those minutes, Director Krusee recalled his use of the word “flexible” as part of the Board’s decision regarding the type of collateral to be used to secure the \$1.45 million economic development studies loan for the Emerald Island project, but noted that the word was not made part of the record on the decision.

The Board discussed the prior decision made on the collateral, and whether the minutes of the July 17 meeting would require revision. No vote on the nature or type of collateral was had during the July meeting, only the amount of the collateral. Therefore, Directors Hawkins, Talley, and Walker saw no need for revision. Director Krusee asked that his two above-described objections to the minutes of the July 17 meeting be noted for the record. Mr. Walker then commented that, in his view, Mr. Carpenter would not meet the District halfway on the loan deal, and that the District owed a fiduciary duty to the taxpayers to have proper collateral. Mr. Krusee rebuked Mr. Walker for the comment because it did not concern approval of the minutes.

On motion made by Director Talley, seconded by Director Walker, and agreed by Director Hawkins, the minutes were approved by the required majority. Director Krusee wished to preserve his objection to the minutes, and did not vote to approve.

3. With regard to Agenda Item No. 5: The Board next opened its discussion on proposed candidates to fill the vacant Director seat. Director Walker began the discussion by reminding the Board of its fiduciary duties to the District, taxpayers, and legislature, rather than to individual landowners or developers. He asked the Board to take notice of Mr. Carpenter’s threats and in his view overall bad behavior. Mr. Carpenter wished to respond, but was advised by the other Board members that the time for public comments had closed and that he would not be permitted to address the Board further. Director Krusee asked Director Walker not to direct his personal remarks to Mr. Carpenter because his presence at the meeting should be respected as a member of the public.

Director Krusee nominated Mr. Cunningham to fill the vacant Board seat, and Director Hawkins seconded. Directors Walker and Talley voted against Mr. Cunningham's appointment to the Board. No majority was reached. Therefore, Mr. Cunningham was not appointed.

Next, the Board discussed Daniel Webster as a proposed appointee, and held a vote following such discussion. Directors Walker and Talley voted in favor of Mr. Webster's appointment to the Board, Director Krusee voted against, and Director Hawkins abstained. The required majority was not reached. Therefore, Mr. Webster was not appointed.

Director Talley advised the Board that he thought Joanna Kaplan was qualified to serve, that she was another good candidate to fill the vacant Board seat, and that he would also be willing to consider a number of previous Board members to fill the vacancy. Discussion was had, but a formal vote was not called by the Board on Ms. Kaplan or any other nominees.

Director Hawkins interjected that he did not believe a consensus would be reached on any candidate during this meeting, and also voiced concern that a uniform process for filling the vacant Board seat was not being practiced. Director Hawkins reminded the Board that each of them had previously agreed to make an effort to meet with proposed candidates and to consider each candidate systematically prior to the meetings. Director Krusee expressed disappointment that, despite previous discussion on the consideration process, the other Directors did not invest time interviewing Mr. Cunningham, as he had, since the last meeting.

Director Hawkins then made a motion to defer further voting on another Board member to fill the vacancy until a subsequent, unspecified meeting time. All three of the Jackson Walker attorneys asked the Board to keep the TCEQ deadline in mind, and to consider scheduling the deferment no longer than the September 2024 regular meeting of the Board instead of an unspecified time frame. Mr. Alcott also addressed the Board regarding deferment, the TCEQ timeframe of 90 days, and the possibility that their failure to appoint someone could result in TCEQ naming the new Director for them. Ms. Freel urged the Board to consider each candidate and to come to consensus on their appointee.

On motion made by Director Hawkins, seconded by Director Krusee, and unanimously resolved by Directors Walker and Talley, a vote on the appointment of an individual to fill the vacant Board seat was deferred until the next regular meeting of the Board tentatively scheduled for September 18, 2024, and Jackson Walker was authorized to send a letter to TCEQ (after sending an advance copy to all Board members for review) explaining that the additional time was needed because multiple candidates were under still being considered.

Director Hawkins returned to the subject of a defined, organized process for selecting the new Board member. On motion made by Director Hawkins, seconded by Director Walker, and unanimously resolved by Directors Krusee and Talley, all current Board members agreed to practice the following process of interviewing proposed candidates for the open Board seat:

- A. Any existing Director should identify his selected candidates, ideally one at a time;
- B. Inform such candidate of the contact information for the other three Directors (to include but not be limited to each Director's email address and telephone number);

- C. Allow his candidate to initiate contact with the other Directors, and to determine individually how they would meet and interview with those Directors.

4. With regard to Agenda Item No. 6: On behalf of HICAM, Mr. Metzger informed the Board that the HICAM building construction project was both on time and on budget, and that the building may have occupants by year-end. The directors of HICAM had visited the site along with Mr. Dukes, and Mr. Metzger presented the Board with a short video showing the building's progress.

Mr. Metzger provided additional information on HICAM's state and federal grant pursuits, including HICAM's efforts to connect with electronics manufacturer NextFlex; the National Institute of Standards and Technology; the University of Texas; Blue Forge Alliance, and Carnegie Mellon University's Advanced Robotics for Manufacturing Institute. Mr. Metzger reported on interviews with twenty companies to bring more manufacturing jobs to the area, and his efforts to connect with manufacturing training agencies. Ms. Rees and Mr. Ostby from Juice Consulting updated the Board on some of Mr. Metzger's recent public speaking opportunities. Mr. Hockenyos thanked Mr. Metzger for his dedication and leadership, and described the building project as impressive and positive for the District. Mr. Hockenyos also reported to the Board that discussions with the City of Austin about the District annexing the HICAM property were on-going.

5. With regard to Agenda Item No. 7: Mr. Alcott drew the Board's attention to the financial information included in the board materials packet for the meeting, and asked Ms. Salazar to present those financials in her usual manner. At the conclusion of her presentation, Ms. Salazar recited a list of outstanding invoices for the Board to consider approving for payment, including two months of invoices from Jackson Walker, approximately three months of invoices from Chasnoff Stribling, and bills from PJC Contracting and Monark Builders related to HICAM's construction project.

Director Talley asked Ms. Salazar to provide a grand total of the invoices, and asked for the values of the amounts previously committed to HICAM. Director Hawkins asked the HICAM team when they might receive a proposed budget, and Mr. Hockenyos addressed the question on behalf of HICAM. Mr. Hockenyos explained that HICAM's fiscal year would begin in October, and he anticipated being able to present a detailed budget to the Board at that time.

Director Krusee explained to the Jackson Walker attorneys that the District had asked for and received a significant discount against the fees of another firm representing the District, and he wondered if there may be time to review and discuss a similar reduction to the Jackson Walker bills prior to invoice approval. Director Krusee advised the attorneys that he believed their bills were large and unsustainable in the long term. Director Walker interjected that he thought the legal services had been provided to the Board to deal with behaviors and conflicts that were outside the norm for customary board governance, resulting in higher costs. Director Walker also noted that a significant portion of the bills were necessary to resolve issues with the District that he felt should not have happened in the first place.

Ms. Freel offered an explanation to the Board on the amounts and necessity for Jackson Walker's fees and expenses, including additional work related to special meetings and the TCEQ matter. She agreed with Director Walker that work was being generated by Board dysfunctions, as

well as professional advice that was not being followed. She also noted that time was spent to protect the District.

Mr. Alcott also addressed the Board on the subject of professional fees. He urged the Board to consider leaving more responsibility for negotiations and general management to the District's staff members, rather than requiring the District's general counsel to fill those roles. Mr. Venema reminded the Board that a contract approval policy was put in place unanimously during the last meeting, and one of the purposes for the preparation of the policy was to help allow District staff to negotiate contracts on behalf of the District with the assistance of outside legal counsel as needed instead of fully relying on outside legal counsel for such tasks.

Director Talley described Jackson Walker's work on the governance documents, among others, as work that should have been done five years ago. He thanked the Jackson Walker attorneys for attending to previously undone projects of that type, and urged the Board to avoid behavior that results in higher fees. He also noted that the District's attorneys represent the District, and not the landowners.

Following such discussion, all outstanding invoices were approved for payment by Directors Hawkins, Walker, and Talley. Director Krusee abstained from the vote. The required majority was reached, and the invoices were thus approved for payment in their entirety.

6. With regard to Agenda Item No. 8: Mr. Nicolas drew the Board's attention to the District's "Rules of Governance," which were adopted at the July 17 regular meeting of the Board subject to certain modifications, and were revised to incorporate those modifications. Mr. Nicolas provided each Director with a set of those revised Rules of Governance and redlines of showing the revisions made for reference. Mr. Venema also presented on those documents to the Board, and provided additional information to the Board on officer roles and responsibilities.

On motion made by Director Walker, seconded by Director Hawkins, and unanimously approved by the rest of the Board, the final form of the Rules of Governance dated and effective as of July 17, 2024, as revised and circulated to the Board in the current meeting's materials packet, were wholly adopted.

7. With regard to Agenda Item No. 9: The Board moved on to discuss the District's officer titles and the duties associated with each. Mr. Venema advised the Board that the officer titles described in the governance documents now complied with statute, and that previous titles, such as "COO," should be eliminated. Mr. Nicolas gave more detail to the Board on the distinctions between the roles of the officers and the directors.

The Board unanimously approved the removal of their previous officer titles, following which, Director Talley suggested that they consider an election for Board titles during the current meeting. Director Talley moved that Director Walker become the new "Chairperson" of the Board. However, Director Walker expressed reluctance to take on the position. Director Krusee, as current Chairperson, moved to appoint Director Walker as "Vice-Chairman" of the Board. Director Hawkins seconded that motion, and Director Walker agreed to serve. Director Talley abstained from the vote, but a majority was reached and, thus, Director Walker became Vice-Chairperson and Director Krusee remained in his current role as Chairperson.

The Board next discussed the officer positions being filled by existing District staff. Director Hawkins suggested that the “CEO” (a/k/a “Executive Director”) title be changed to that of “President” and the “COO” title be changed to “Vice-President”. Mr. Alcott recommended to the Board that Ms. Salazar, given her current responsibilities, should be “Treasurer,” and that Kristin Massay, given her current recordkeeping responsibilities, should be “Secretary.” No objection was made, and the Board unanimously agreed with the assigned titles.

8. With regard to Agenda Item No. 10: At or about 3:40 p.m., the Board recessed into executive session. The executive session was attended by all four current Directors. The executive session was also attended, in whole or in part, by Mr. Dukes, Mr. Alcott, Mr. Johnson, Mr. Nicolas, Mr. Venema, Ms. Freel, and Mr. Hockenyos. The executive session was had to discuss or deliberate the matters set forth in Agenda Item No. 10, specifically:

- a. Update and legal advice regarding the proposed annexation and imposition of sales tax for all or part of the District-owned 4- and 7-acre tracts of land located near the District (together with the HICAM facility situated on the 7-acre tract). *See* TEX. GOV’T CODE § 551.071 (consultation with attorney); *see* TEX. GOV’T CODE § 551.072 (deliberation regarding real property); *see* TEX. GOV’T CODE § 551.087 (deliberation regarding economic development negotiations).
- b. Report, deliberation, and private consultation with the District’s attorneys, including related attorney-communication and/or work product privileged matters, concerning:
  - i. Scope of engagement and directives for the District’s outside legal counsel, *see* TEX. GOV’T CODE § 551.071 (consultation with attorney);
  - ii. Pending TCEQ proceeding, *see* TEX. GOV’T CODE § 551.071 (consultation with attorney); and
  - iii. Pending potential modification of “Oversight and Compliance Management Services Agreement” with Affordable Housing Compliance Services, LLC, *see* TEX. GOV’T CODE § 551.071 (consultation with attorney), *and* TEX. GOV’T CODE § 551.072 (deliberation regarding real property).
- c. Report and deliberation concerning employment of the District’s Executive Director. *See* TEX. GOV’T CODE § 551.074 (personnel matters).

9. With regard to Agenda Item No. 11: The executive session adjourned at or about 5:37 p.m., at which time Director Krusee announced that no actions were taken during the executive session, and the Board would reconvene in public session.

After reconvening, Director Talley made a motion to terminate the District’s continued engagement of the law firm of Johnson Petrov, LLP. Directors Hawkins and Walker voted in favor of the proposed termination, and Director Krusee voted against it saying he would like the engagement to continue because of the law firm’s experience. The required three-vote majority was reached, and the District’s contract with Johnson Petrov, LLP for legal services was terminated, effective immediately.

Director Hawkins then moved to: (a) transition Mr. Dukes from his current role as President of the District to “Director of Business Development” for the District, effective immediately; (b) allow Mr. Dukes to serve the rest of the term of his existing employment agreement with the District, with the title, duties, and responsibilities of Director of Business Development; (c) form a committee comprised of Directors Hawkins and Talley to work with Jackson Walker on documenting and negotiating an amendment to Mr. Dukes’ employment agreement to address the foregoing role change, and then present the amendment and the committee’s recommendations to the Board for final approval; (d) promptly post a job opening for President of the District; and (e) appoint the current Vice-President, Mr. Alcott, to fulfill the duties of President in the interim search period. The motion was voted on and unanimously approved by the Board.

10. With regard to Agenda Item Nos. 12 and 13: There being no additional business to conduct, with the date of the next regular meeting of the Board tentatively scheduled on September 18, 2024, upon motion by Director Krusee, seconded, and unanimously approved, the Board adjourned the meeting at or about 5:44 p.m.

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APPROVED AND ADOPTED on this 18th day of September, 2024.



SH130 Municipal Management District No. 1

By: Kristinn Massay

Print Name: Kristinn Massay

Title: Secretary