

March 1, 2017

Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850


RE: Docket No. 170016-WS; Application of MSKP Town and Country Utility, LLC for Transfer of Water and Wastewater Facilities to Babcock Ranch Community Independent Special District in Charlotte and Lee County, Florida

Attached for filing is MSKP Town and Country Utility, LLC Supplemental Information to Application for Transfer of Water and Wastewater Facilities to Babcock Ranch Community Independent Special District in Charlotte and Lee County, Florida, pursuant to §367.071(4)(a), Fla. Stat.

Should you or the Staff have any questions regarding this filing, please do not hesitate to give me a call.

Very truly yours,

GREENBERG TRAURIG, P.A.

By:  /st  
Phillip C. Gildan  
Authorized Representative of Applicant

cc: Jonathan Johnson, Esquire  
Hopping Green & Sams, P.A.  
Authorized Representative of  
Babcock Ranch Community Independent Special District

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of:  
MSKP Town and Country Utility, LLC for the  
Transfer of Water and Wastewater facilities to  
Babcock Ranch Community Independent  
Special District in Charlotte and Lee County,  
Florida

DOCKET NO.: 170016-WS

**SUPPLEMENTAL INFORMATION TO  
APPLICATION FOR TRANSFER OF WATER AND WASTEWATER  
FACILITIES TO A GOVERNMENTAL AUTHORITY**


Applicant, MSKP TOWN AND COUNTRY UTILITY, LLC or ("Applicant"), by and through its undersigned attorneys, and pursuant to § 367.071, Fla. Stat., files this Supplemental Information to Application for Transfer of Facilities to a Governmental Authority:

1. Babcock Ranch Community Independent Special District Minutes of Meeting, Thursday, December 15, 2016.
2. Babcock Ranch Community Independent Special District Minutes of Meeting, Thursday, January 26, 2017.

Respectfully submitted on this 1<sup>st</sup> day of March,  
2017, by:

GREENBERG TRAURIG, P.A.

By:

  
Phillip C. Gildan  
Authorized Representative of Applicant

**MINUTES OF MEETING**

*Babcock Ranch Community Independent Special District  
Board of Supervisors Meeting  
Thursday, December 15, 2016 at 1:00 p.m.  
Earthsources,  
14740 SR 31, Punta Gorda FL, 33982*

Present and constituting a quorum:

Gary Nelson	Board Member
Elizabeth Andres	Board Member
Mike Acosta	Board Member
Bill Vander May	Board Member

Also present were:

Jill Burns	Fishkind & Associates	
Alyssa Willson	Hopping Green & Sams	
Andy Tilton	Johnson Engineering	
Erica Woods	Kitson & Partners	
John Broderick	Kitson & Partners	
Robert Ori	Public Resources Management Group (via phone)	
Johnathan Jonson	Hopping Green & Sams	(via phone)
Jennifer Walden	Fishkind & Associates	(via phone)
Phillip Gildan	Greenberg Traurig	(via phone)

**FIRST ORDER OF BUSINESS**

**Call to Order**

The meeting was called to order at 1:00 p.m. and Ms. Burns proceeded with roll call. Board Members Gary Nelson, Elizabeth Andres, Mike Acosta, and Bill Vander May were present, constituting a quorum.

**SECOND ORDER OF BUSINESS**

**Organizational Matters**

**Public Comment Period**

There were no public comments at this time.

**Swearing in Newly Elected Supervisors (Mike Acosta, Elizabeth Andres, & Theresa Jurca)**

Mr. Acosta and Ms. Andres were previously sworn in. Ms. Jurca is not present and will be sworn in at the next meeting.

**Consideration of the Minutes of the  
September 22, 2016 Board of  
Supervisors' Meeting**

The Board reviewed the minutes of the September 22, 2016 Board of Supervisors' Meeting.

On MOTION by Mr. Acosta, seconded by Ms. Andres, with all in favor, the Board approved the minutes of the September 22, 2016 Board of Supervisors' Meeting.

**Consideration of the Minutes of the  
November 8, 2016 Landowners'  
Election**

The Board reviewed the minutes of the November 8, 2016 Landowners' Election. There were no questions, comments or corrections.

On MOTION by Mr. Acosta, seconded by Ms. Andres, with all in favor, the Board approved the minutes of the November 8, 2016 Landowners' Election, as amended.

**Consideration of Resolution 2017-  
01, Canvassing and Certifying the  
Results of the Landowner' Election**

The Landowners' Election was held on November 8, 2016 and this resolution outlines the results of that election. Ms. Burns requested motion to approve Resolution 2017-01.

On MOTION by Ms. Andres, seconded by Mr. Vander May, with all in favor, the Board approved Resolution 2017-01, Canvassing and Certifying the Results of the Landowners' Election.

### THIRD ORDER OF BUSINESS

### Business Matters

#### **Public Hearing to Consider Lease, Purchase, and Privatization of MSKP Town and Country Utility, LLC, Water and Sewer Utilities System and Babcock Ranch Irrigation, LLC Irrigation System**

- a) **Consideration of Lease/Option to Purchase Agreement**
- b) **Presentation of Consultant Report**
- c) **Board Comments and Questions**
- d) **Public Comment and Testimony**
- e) **Consideration of Public Interest Resolution 2017-02**

Ms. Burns requested a motion to open the public hearing.

On MOTION by Mr. Vander May, seconded by Mr. Acosta, with all in favor, the Board opened the Public Hearing.

Mr. Johnson explained that District staff has been working with the utility to put together the package before the Board today. He explained that the special act contemplates the Board's ability to undertake the acquisition through these arrangements of the existing private utility MSKP Town and Country and Babcock Ranch Irrigation. Mr. Gildan with Greenberg Traurig explained that he is the Counsel for both of the Utility Lessors for this transaction. He explained that MSKP is a regulated utility provider by the Florida Public Service Commissions which regulates the rate and customer service aspects of privately held water and sewer utilities in the State of Florida. Babcock Ranch Irrigation owns and operates an irrigation system that is not regulated by the Florida Public Service Commission. The proposal is for both of these owners of the potable water and the sewer system and the irrigation quality water system to lease their assets to the District. The District would become and create a utility and would be the utility provider for the community. Included in the lease is an Operations and Maintenance Agreement whereby MSKP continues to operate the utility as it does but as a Contract Operator for and under the direction and management of the District Board and provides for both the lessors to retain their responsibility or the right to continue to fund and construct the infrastructure needed as the customers grow in the community and will fund that through themselves or the Development Board and not through the ISD Board. Mr. Gildan explained that there is also an option for the District to purchase and it provides the District the opportunity

when the utility becomes mature and has sufficient customers generating sufficient revenues to acquire the utility facilities from the two lessors and provides a mechanism for that to take place which is the same that has been used by Counties, municipalities, and Districts throughout the State over the last 30-40 years. It provides for a leveraged buyout process. A methodology would be put in place in advanced and set up the transaction for approval today. It provides for the opportunity to validate additional Bonds for the anticipated build out purchase price under that methodology. There were no questions or public comments.

Mr. Ori with Public Resources Management Group presented his Consultant's Report regarding for the water and sewer system and the irrigation quality system. He noted that there are several issues that the District needs to address when doing this type of transaction that are outlined in the report. He explained his Consultant Report in detail to the Board. He recommended that the District ownership is the best alternative option. Mr. Ori called for any questions. Mr. Vander May asked that one the income statement projection noted the Developer Guarantee and asked how that is going to work for the District. Mr. Ori stated that in there near term of the financial forecast there are not going to be that many customers and there is a concept called non-used and useful and gave an example that if he had \$100.00 of cost on one customer and rates on average are \$10 it is hard to charge the customer \$100.00. Mr. Ori recognized this in the initiation of the financial forecast and any shortfall in operations will be funded through property assessments and those assessments will serve as a revenue to offset the operating cost of the system. Mr. Gildan noted that there are flexible options provided to the District Board as to how they would like to deal with the deficit funding. Mr. Acosta stated that he worked on this with Mr. Gildan and Mr. Ori on this over the last year.

On MOTION by Mr. Acosta, seconded by Mr. Vander May, with all in favor, the Board closed the public hearing.

Ms. Burns requested a motion to approve the Public Interest Resolution 2017-02.

On MOTION by Mr. Acosta, seconded by Ms. Andres, with all in favor, the Board approved Resolution 2017-02, Public Interest Resolution including Consultant.

**Consideration of Resolution 2017-03, Approving Lease Purchase Agreement**

Ms. Willson explained that this resolution approves the Lease Purchase Agreement and Authorizes execution of the Lease by the District. The Lease does not currently include Exhibits A1 and A2 because they are still under development. Ms. Willson requested approval of 2017-03, in substantial form, authorizing the Chairman to approve and execute the final form of the Lease subject to any comments by various counsel.

On MOTION by Mr. Acosta, seconded by Ms. Andres, with all in favor, the Board approved Resolution 2017-03, Approving Lease Purchase Agreement in substantial form, authorizing the Chairman to approve and execute the final form of the Lease Purchase Agreement subject to any comments by counsel.

**Consideration of Resolution 2017-04, Establishing Water, Sewer, and Irrigation Quality Water Utility**

Ms. Willson explained that this resolution authorizes and establishes the utility as well as the service territory. Ms. Burns requested a motion to approve Resolution 2017-04.

On MOTION by Mr. Acosta, seconded by Mr. Vander May, with all in favor, the Board approved Resolution 2017-04, Establishing Water, Sewer, and Irrigation Quality Water Utility.

**Consideration of Resolution 2017-05, Establishing Utility Proprietary Fund**

There were no questions or comments about the resolution so Ms. Burns requested a motion to approve Resolution 2017-05.

On MOTION by Mr. Acosta, seconded by Mr. Vander May, with all in favor, the Board approved Resolution 2017-05, Establishing Utility Proprietary Fund.

**Consideration of Resolution 2017-06, Approving Utility Budget**

There is a copy of the budget attached to the resolution. Ms. Burns requested approval of Resolution 2017-06.

On MOTION by Mr. Acosta, seconded by Ms. Andres, with all in favor, the Board approved Resolution 2017-06, Approving Utility Budget.

**Consideration of Utility Extension Policy**

Ms. Burns stated that the District has an updated version of the Utility Extension Policy from what is in the agenda package. Mr. Gildan noted that some descriptions of what was in the policy were changed to match what is in the tariff. Ms. Burns requested a motion to approve the Utility Extension Policy.

On MOTION by Mr. Acosta, seconded by Mr. Vander May, with all in favor, the Board approved the Utility Extension Policy, as amended.

**Consideration of Utility Service Policy**

Ms. Burns stated that the District has an updated version of the Utility Service Policy from what is in the agenda package. Mr. Gildan noted District Counsel also caught a typo within the document and he also reconciled the descriptions of fees and charges with what is in the tariff and Ms. Burns requested a motion to approve the Utility Service Policy.

On MOTION by Mr. Acosta, seconded by Mr. Vander May, with all in favor, the Board approved the Utility Service Policy, as amended.



**Request for Authorization to Set  
Public Hearing on Utility Tariff  
and Rate for January 26, 2017  
Meeting**

Ms. Willson noted that the Rate and Tariff sheet describes the various rates and charges that are going to be imposed pursuant to this agreement. The tariff outlines all the rates fees and charges and in the agenda package are forms of Notice of Rule Making. They are required notices that the District must go through to impose those rates. The District has a two-step process which includes a public hearing and the imposition of those rates. Ms. Willson requested a motion to authorize District staff to advertise the public hearing which is set for January 26, 2017 which is the next regularly scheduled Board Meeting. District staff will update the form of the Notice of Rule Making to include all of that information that is included in the Rate Tariff Sheet. Mr. Vander May asked that since the public hearing is not until January how does that impact if there are any customers for the District prior to that date. Ms. Willson said that the District can impose those rates but they will not be in final form until they are formally adopted pursuant to that public hearing. Mr. Johnson said that the District will go ahead and begin operations using these rates but the Board is approving for purposes of the final public hearing. Ms. Burns requested a motion to authorize District staff to publish the notice for the public hearing on January 26, 2017.

On MOTION by Mr. Acosta, seconded by Ms. Andres, with all in favor, the Board approved authorized District Staff to publish notice of the public hearing on Utility Tariff and Rate for January 26, 2017.

**Consideration of Amended and  
Restated Engineering Agreement-  
Johnson Engineering**

Ms. Burns stated that there is an updated version of this agreement. Ms. Willson noted that it is in the same form as what was included in the agenda package but it has been updated with page numbering and the inclusion of an exhibit C that was formerly confusing. She noted that Mr. Broderick, as District Construction Administrator, was reviewing the ongoing engineering scopes of work because the District has a District Engineer and a Special Project Engineer. He identified that using Kimley Horn as the project Engineer and the District Engineer would provide a more streamlined review process for all the District's construction items and be more cost effective for the District. He checked with District Counsel who feels there is no harm in using Kimley as both the Construction Project

Engineer and the District Engineer. Ms. Willson amended and restated both agreements to update the scope of work pursuant to the District's Construction Administrator's comments on what would be best for the District moving forward. The Amended and Restate Johnson Engineering incorporates Johnson's currently hourly rate schedule for 2016 as attachment 1 and included Exhibit A the 2008 Agreement which is incorporated and replaced by this Amended and Restated Agreement. Exhibit B incorporates the ongoing Work Authorizations with Johnson Engineering and Work Authorizations 2 and 3, which were previously approved by the Board. Any additional work will be approved via a similar work authorization a form of which is attached as exhibit C. With this scope of work Johnson Engineering is no longer serving as the District Engineer and will not be at all meetings unless the Board chooses to execute a work authorization for them to come for certain purposes and present to the Board on those matters and they will no longer be reviewing and processing the construction related requisitions. Ms. Burns requested a motion to approve the amended and restated Engineering Agreement with Johnson Engineering.

On MOTION by Mr. Vander May, seconded by Mr. Acosta, with all in favor, the Board approved the Amended and Restated Engineering Agreement with Johnson Engineering.

**Consideration of Amended and Restated Engineering Agreement-Kimley-Horn**

Ms. Burns requested a motion to approve the amended and restated Engineering Agreement with Kimley Horn. Ms. Willson requested that with that motion Work Authorization 3 will be approved which incorporates the scope of work as District Engineer for Kimley Horn.

On MOTION by Mr. Vander May, seconded by Ms. Andres, with all in favor, the Board approved the Amended and Restated Engineering Agreement with Kimley-Horn which includes Work Authorization 3.

**Consideration of Kimley-Horn Work Authorization 4**

Ms. Burns presented Work Authorization 4 and requested a motion from the Board for its approval.

On MOTION by Mr. Vander May, seconded by Mr. Acosta, with all in favor, the Board approved the Kimley-Horn Work Authorization 4.

#### **Consideration of Resolution 2017-07, Prompt Payment Policies**

Ms. Burns explained that this includes a memo that outlines the prompt payment policies from Hopping Green. Ms. Willson explained that her firm put these policies together for consideration by all their Districts to establish appropriate procedures for payment of invoices to ensure that the District is in compliance with the statutorily mandated Prompt Payment Act. The Act requires Districts to establish procedures for making payment requests, marking payment requests, or invoices as received, and establishing dispute resolution procedures in the event a dispute occurs between the District and a Contractor. The Prompt Payment Act and these policies would apply for agreements for non-construction goods and services as well as construction goods and services. Mr. Vander May asked if there was an issue with this ISD and Ms. Willson answered that there was no issue with this ISD, but she mentioned that there have been at other ISDs and CDDs and as a result her firm felt like it was important to be proactive on this issue. Ms. Burns requested a motion to approve Resolution 2017-07.

On MOTION by Mr. Vander May, seconded by Ms. Andres, with all in favor, the Board approved Resolution 2017-07, Prompt Payment Policies.

#### **Consideration of Fiscal Year 2016 Audit Renewal Proposal**

Ms. Burns noted Ms. Willson found that there is not a termination provision found in this agreement. Ms. Burns requested Board approval in substantial form to go back to CRI to see if they are agreeable to adding the termination provision into the agreement which is 60 days' termination by either side. Ms. Willson noted that within the District the Auditor charges an hourly rate to prepare the audit but they did include a not to exceed amount of

\$6,000.00. Ms. Burns requested approval of the Audit Renewal Agreement for Fiscal Year 2016 and authorize the Chair to sign off on the final form of agreement.

On MOTION by Mr. Vander May, seconded by Ms. Andres, with all in favor, the Board approved the Audit Renewal Agreement for Fiscal Year 2016 and authorized the Chair to sign off on the final form of agreement.

**Ratification of Landscape and Irrigation Maintenance Agreement with Davey Tree Expert Company**

Ms. Burns explained that this agreement is for general mowing and landscape maintenance that will be performed by Davey Tree. This is maintenance that needs to be done while the District works on hiring a landscaper for the whole project. The proposal is \$1,600 per week for 40 hours of work. The Chair already signed off on this agreement, so District staff is looking for the Board to ratify. Ms. Willson stated that the proposal amount is below bid threshold. Ms. Burns requested ratification of the Landscape and Irrigation Maintenance Agreement.

On MOTION by Mr. Vander May, seconded by Mr. Acosta, with all in favor, the Board ratified the Landscape and Irrigation Maintenance Agreement with Davey Tree Expert Company in the amount of \$1,600.00 per week.

**Ratification of Construction Agreement #2016-215-121 for the Neighborhood & Founders Square Entrance Markers**

Ms. Burns explained this agreement has already been approved and just needs ratified by the Board.

On MOTION by Mr. Vander May, seconded by Mr. Acosta, with all in favor, the Board ratified the Construction Agreement #2016-215-121 for the Neighborhood & Founders Square Entrance Markers.

**Ratification of Construction Contract #2016-215-140 for the Trailhead Facility Electrical Project**

Ms. Burns explained this agreement has already been approved and just needs ratified by the Board.

On MOTION by Mr. Acosta, seconded by Mr. Vander May, with all in favor, the Board ratified the Construction Contract #2016-215-140 for the Trailhead Facility Electrical Project.

**Ratification of Construction Contract #2016-215-141 for the Great Lawn Electrical project**

Ms. Burns explained this agreement has already been approved and just needs ratified by the Board.

On MOTION by Mr. Vander May, seconded by Ms. Andres, with all in favor, the Board ratified the Construction Contract #2016-215-141 for the Great Lawn Electrical Project.

**Ratification of Change Orders**

Ms. Burns explained this agreement has already been approved and just needs ratified by the Board.

On MOTION by Mr. Vander May, seconded by Mr. Acosta, with all in favor, the Board ratified the Change Order Summary.

**Ratification of Funding Request  
113-117**

Ms. Burns stated that these have already been approved by the Chair and need to be ratified by the Board.

On MOTION by Mr. Acosta, seconded by Mr. Vander May, with all in favor, the Board ratified Funding Request 113-117

**Ratification of Requisitions 97-127**

The Board reviewed the summary of requisitions which have been approved by the Chair and need ratified by the Board.

On MOTION by Mr. Vander May, seconded by Ms. Andres, with all in favor, the Board ratified Requisitions 97-127.

**Statement of District Financial  
Position**

There was no action required by the Board.

**FOURTH ORDER OF BUSINESS**

**Other Business**

**Staff Reports**

**Attorney-** Mr. Johnson reminded the board about the meeting in January and the rate hearing that was just approved today and there will be documents at that meeting related to the proposed Bond Validation for this Utility transaction and for the proposed infrastructure to be provided to the lands in Lee County that were not included in the original validation.

**Engineer-** Mr. Tilton thanked the Board as he has been the District Engineer for the last 8 years.

**Manager-** The next meeting is scheduled for January 26, 2017.

**Status Report on Construction-**

Mr. Broderick stated that the entrance off 31 into the residential area is nearly complete but landscaping continues with 14 homes started today. In the Founders Square, there are two buildings that are ongoing and two buildings are being started this week and into next week which are the education building and the market building. The construction in the 1B1 area is ongoing as well and the Developer has issues contracts for that work. The pumping of Lake 5 has started or will soon. From the north of the Town Center there will be a 260-acre lake once the land bridge is removed. He noted that TCU is going well and the distribution lines are in the process of getting certified. The residential Lift Station is going on line today.

**FIFTH ORDER OF BUSINESS**

**Audience Comments and Supervisors Requests**


There were no Supervisor requests or audience comments.

**SIXTH ORDER OF BUSINESS**

**Adjournment**

There were no further questions or comments. Ms. Burns requested a motion to adjourn.

On MOTION by Mr. Acosta, seconded by Mr. Vander May, with all in favor, the December 15, 2016 Board of Supervisors meeting for the Babcock Ranch Community Independent Special District was adjourned.

  
Secretary/Assistant Secretary

  
Chairman

**MINUTES OF MEETING**

**MINUTES OF MEETING**

*Babcock Ranch Community Independent Special District  
Board of Supervisors Meeting  
Thursday, January 26, 2017 at 1:15 p.m.  
14740 SR 31, Punta Gorda FL, 33982*

Present and constituting a quorum:

Gary Nelson	Board Member
Elizabeth Andres	Board Member
Theresa Jurca	Board Member

Also present were:

Hank Fishkind	Fishkind & Associates	
Alyssa Willson	Hopping Green & Sams	
Erica Woods	Kitson & Partners	
John Broderick	Kitson & Partners	
Jerry Evans	CCMC	
Amy Wicks	Kimley Horn	(via phone)
Phillip Gildan	Town & Country Counsel	(via phone)
Johnathan Jonson	Hopping Green & Sams	(via phone)
Jill Burns	Fishkind & Associates	(via phone)
Jennifer Walden	Fishkind & Associates	(via phone)

**FIRST ORDER OF BUSINESS**

**Call to Order**

The meeting was called to order at 1:15 p.m. and Ms. Burns proceeded with roll call. Board Members Gary Nelson, Elizabeth Andres, and Theresa Jurca were present, constituting a quorum.

**SECOND ORDER OF BUSINESS**

**Organizational Matters**

**Public Comment Period**

There were no public comments at this time.

**Swearing in Theresa Jurca**

Dr. Fishkind entered the meeting in progress at 1:16 p.m. and took over running the meeting. Ms. Jurca was administered the Oath of Office prior to the Board Meeting.



The District received a resignation letter from Mr. Acosta. The seat is currently vacant and will be filled at a later time.

**Consideration of the Minutes of the  
December 15, 2016 Board of  
Supervisors' Meeting**

The Board reviewed the minutes of the December 15, 2016 Board of Supervisors' Meeting. Ms. Willson provided edits.

On MOTION by Ms. Andres, seconded by Mr. Nelson, with all in favor, the Board approved the minutes of the December 15, 2016 Board of Supervisors' Meeting, as amended.

**THIRD ORDER OF BUSINESS**

**Business Matters**

**Public Hearing to Consider  
Rulemaking for the Purpose of  
Potable Water, Sewer and  
Irrigation Quality Water Utility  
Fees**

- a) **Public Comments & Testimony**
- b) **Board Comments & Questions**
- c) **Consideration of Resolution  
2017-08, Authorizing and  
Establishing the Utility Rate  
Tariff for The Babcock Ranch  
Water Utilities**
- d) **Consideration of Resolution  
2017-09, Authorizing and  
Establishing the Utility Service  
Policy for The Babcock Ranch  
Water Utilities**

At the last meeting, the Board approved a lease agreement between the District and the utility operator, Town & Country Utility and part of the lease agreement requires that the District set new rates and charges in order to pay the lease payments and the operations and maintenance. Ms. Willson requested that Dr. Fishkind and Mr. Gildan explain the rate tariff, the extension policy, service policy, and mention the waiver and then the Board can move on to the resolution. Dr. Fishkind opened the public hearing. He explained that the rates and charges are in the appropriate format. He noted that they vary by different meter

sizes and have consumption amounts for the usage of the service. Dr. Fishkind explained that the prices that are in this tariff are competitive and consistent with what is expected in a normal market and are reasonable relative to the surrounding providers. He continued to explain the automatic cost escalation and noted that it is unique that the District has the lease itself and it is cost effective for the District not to have to bare the risk of putting in the utility system and it also protects the private investor. The rates and charges provide for how the District will pay for the lease obligations incurred. Dr. Fishkind stated that the Lease Agreement has a higher base charge than in the rates and charges. Town & Country was willing to waive the ceiling amount in the Lease and agree to the published rates and charges. Ms. Willson noted that the District has an executed copy of the waiver and it will be included with all of the documents and it will be attached to one of the upcoming resolutions as an exhibit. Mr. Evans asked if there is an easy process to come to the Board to adopt a specifications or specific rates that might not have been noted within the Lease and the rates. Dr. Fishkind noted that, that will come up and the Board can amend with a simple rulemaking action and they would be required to advertise and would need 60 days time and then they can be adopted and added to the rates, charges, and procedures. Ms. Willson explained that this resolution in the package was updated from what was distributed electronically and the revisions note the waiver which expresses that the rates follow the Lease Option and Purchase Agreement approved at the last meeting and it waives strict compliance with the rate conveyance contained in the Lease Agreement through September 30, 2024. The waiver and the Rate Tariff are attached to this resolution as exhibits and by adopting this resolution the Board is relying on the waiver letter and adopting the Rate Tariff as provided in the package. Dr. Fishkind requested a motion to adopt Resolution 2017-08.

On MOTION by Ms. Andres, seconded by Mr. Nelson, with all in favor, the Board adopted Resolution 2017-08, Authorizing and Establishing the Utility Rate Tariff for the Babcock Ranch Water Utilities.

Resolution 2017-09 will establish the service policies. Ms. Andres asked if this is something for the District's use or something that will be shared with homeowners who may have questions with how the District is managing things. Dr. Fishkind noted that all the documents are public and the entire agenda package is put up on the District's website so that anybody can view the documents. Ms. Woods said that she thinks that there is a website that the ISD will set up for the utility that will have the policies and procedures. Dr. Fishkind noted that the same company that has done the District site will be doing the utility site and Ms. Woods will make sure that it will be on that website. There were no further questions or comments. Dr. Fishkind requested a motion to approve Resolution 2017-09.

On MOTION by Ms. Andres, seconded by Mr. Nelson, with all in favor, the Board approved Resolution 2017-09, Authorizing and Establishing the Utility Service Policy and Extension Policy for The Babcock Ranch Water Utilities.

Dr. Fishkind closed the public hearing.

**Consideration of Resolution 2017-10, Designating Date, Time, and Location of a Public Hearing Regarding the District's Intent to Use the Uniform Method**

Dr. Fishkind explained the Uniform Method of collecting assessments. The approval of the Uniform Method would authorize District staff to begin the discussion with Lee County for the Lee County Parcel. Ms. Willson explained that this is good to do prior to going through the Bond validation. Ms. Willson recommended holding the public hearing in at the regularly scheduled March meeting.

On MOTION by Mr. Nelson, seconded by Ms. Andres, with all in favor, the Board approved Resolution 2017-10, Designating March 23, 2017 at 1:00 p.m. as the public hearing date on the District's intent to use the Uniform Method.

**Consideration of Amendment to Fishkind Management Contract**

Dr. Fishkind explained that Fishkind & Associates manages the District and now they are going to manage the utility as well. The District Manger spoke with Town & Country, The District Counsel, and the District Advisor and have come up with a cost-effective contract. Ms. Willson noted that the Developer had a discussion prior to this meeting and is proposing that the District would continue with this agreement in form except for the items related to the billing and customer service so the fee for the District's contract would be adjusted accordingly. MSKP Town & County would be looking to enter into a separate agreement with Fishkind & Associates for those two portions of that agreement. Ms. Willson asked the Board to approve the agreement without the monthly billing and the customer service line items with the price reflected accordingly. Dr. Fishkind expressed that he prefers the way it is because it has the District Manager working for the District only relative to the utility and the way it is describes is that the District Manager is working

in part for the private sector and in part for the Government sector and he wouldn't want anyone to suggest a conflict of interest with that mixture. Mr. Johnson explained that he does not see a legal conflict and he is comfortable with the District Manager, the District, and the utility operator moving ahead. Fishkind & Associates will work on the contract for Town & Country Utility.

On MOTION by Mr. Nelson, seconded by Ms. Andres, with all in favor, the Board approved the amendment to the Fishkind Management Contract, in form, and authorized the Chairman to execute the final version.

#### **Consideration of Utility Developer Agreement**

Ms. Willson explained that this is an agreement between the property owner and the utility and in the context of this agreement the utility is the ISD. The property owner grants the utility the right to install and own the utility facilities inside or outside of the dedicated easements for utilities as described on the plats. The agreement addresses the property owner's use of the easement area and indemnifies the utility against certain actions against the utility. The agreement places a covenant on the land in favor of the utility stating that the utility has the exclusive rights to provide the services to the property described in Exhibit A and the agreement governs how the property owner connects the utility. It is envisioned that the Board will approve the form of this agreement and authorize the Chair to execute agreements with the property owners as appropriate. Mr. Gildan noted that it is a uniform process so that the District deals with Landowners on a uniform basis and that Landowners understand how they can obtain service from the District and he expressed that it is in line with what other governments do. Ms. Willson noted that there are a couple of typos for certain fees in the agreement and staff will do a final review to correct any of those issues prior to finalizing the document. There were no further questions or comments about the resolution so Dr. Fishkind requested a motion to approve the Utility Developer Agreement.

On MOTION by Mr. Nelson, seconded by Ms. Andres, with all in favor, the Board approved the Utility Developer Agreement in substantial form, authorizing the Chair to execute the document once it is in final form.

### **Appointment of Auditor Selection Committee**

Dr. Fishkind explained that typically the Board would appoint itself as the Auditor Selection Committee and the meeting would immediately follow today's Board of Supervisors' Meeting.

On MOTION by Mr. Nelson, seconded by Ms. Andres, with all in favor, the Board appointed itself as the Auditor Selection Committee.

### **Delegating Authority to the Chair to Execute Agreement with McLin Burnsed**

Ms. Willson explained that the agreement between the District and McLin Burnsed refers to services related to retaining McLin Burnsed to represent the District with regard to negotiating solid waste collection and disposal matters in Lee County and Charlotte County and the current Waste Management vendors in both of those counties. Ms. Willson noted that she will continue to serve as District Counsel however the District will be working with McLin Burnsed as Special Counsel on these services regarding the Utilities. Their hourly rate is proposed to be \$400.00 and District Counsel has provided some comments on the initial draft of the agreement that McLin Burnsed sent to the District and they are currently redoing the draft and putting the agreement in final form for the District to consider. Ms. Willson stated that as long as it conforms to those parameters of the scope of services and the \$400.00. per hour that the Board authorize the Chair to execute that agreement once it is in its final form. Dr. Fishkind noted that McLin Burnsed handled very similar matters for The Villages for many years and \$400.00 an hour is a fair price. Ms. Andres asked what McLin Burnsed is going to do and Ms. Wilson answered that the District is looking to have its own garbage and waste company franchise within the District and currently there are franchises for most of Charlotte County and most of Lee County and they use other garbage providers so the District is navigating with the County and negotiating with the County and those garbage providers to carve out the District's niche and be able to perform its own services within the District. Ms. Willson noted that her firm has a conflict of interest in doing that work for the District as District Counsel which is part of the reason why the District is looking to engage with McLin Burnsed to navigate those areas and represent the District legally on all of those issues related to garbage in both counties. McLin Burnsed will negotiate with the County and with the waste providers

to carve out Babcock as a separate waste franchise. There were no other questions or comments. Dr. Fishkind requested a motion to delegate authority to the Chair to execute the finalized agreement with McLin Burnsed.

On MOTION by Mr. Nelson, seconded by Ms. Andres, with all in favor, the Board authorized the Chair to execute the finalized agreement with McLin Burnsed.

### **Consideration of Street Lighting Service Contract**

Ms. Willson explained that this agreement is with AIS Financial, LLC and they will be in charge of furnishing and installing the lighting facilities and providing of the maintenance of the street lights and AIS will coordinate with FP&L for connection of electricity to those facilities. Ms. Andres asked if it was a lease contract and it was confirmed that was. There were no further questions or comments. Dr. Fishkind requested a motion to approve the Street Lighting Service Contract.

On MOTION by Mr. Nelson, seconded by Ms. Andres, with all in favor, the Board approved the Street Lighting Service Contract.

### **Ratification of Construction Agreement #2016-215-123 for the Wayfinding Monument**

Dr. Fishkind requested ratification of Construction Agreement #2016-215-123 noting that the price is \$20,596.00.

On MOTION by Mr. Nelson, seconded by Ms. Andres, with all in favor, the Board ratified Construction Agreement #2016-215-123 for the Wayfinding Monument in the amount of \$20,596.00.

**Ratification of Construction Agreement #2016-215-124 for the Trailhead Sign and Structure**

Dr. Fishkind noted that this agreement is in the amount of \$14,400.00. Ms. Andres asked about the size of the signs and Mr. Broderick answered that it is the appearance of the same as the entrance sign and it will be backlit with a rock base. Mr. Broderick noted that he can provide photos at any time. There were no other questions or comments.

On MOTION by Ms. Andres, seconded by Mr. Nelson, with all in favor, the Board ratified Construction Agreement #2016-215-124 in the amount of \$14,600.00 for Trailhead Sign and Structure.

**Consideration of Change Orders (Summary Attached)**

Mr. Broderick explained that there are also negative change orders as the District True Up the contracts. The District is paying only by what is installed on site and there are areas where a change order is made out on site that is less than what was originally contracted which is why there are some negative change orders and the positive change orders are where the District made a couple of field changes. Dr. Fishkind asked if Mr. Broderick estimated that even with the changes that the contracts would come in at or about the budget and Mr. Broderick answered yes. There was no further discussion so Dr. Fishkind requested a motion to approve the change orders.

On MOTION by Ms. Andres, seconded by Mr. Nelson, with all in favor, the Board ratified the change orders, as presented.

**Ratification of Funding Requests 118-119**

Dr. Fishkind stated that these have already been approved by the Chair and need to be ratified by the Board.

On MOTION by Ms. Andres, seconded by Mr. Nelson, with all in favor, the Board ratified Funding Requests 118-119.

**Ratification of Change Orders  
(summary attached)**

**Ratification of Requisitions 121 &  
128-145 (Summary Attached)**

The Board reviewed the summary of requisitions which have been approved by the Chair and need ratified by the Board.

On MOTION by Mr. Nelson, seconded by Ms. Andres, with all in favor,  
the Board ratified Requisitions 121 & 128-145.

**Ratification of Payment  
Authorizations #4-11**

The Board reviewed Payment Authorizations #4-11 which have been approved by the Chair and need ratified by the Board. Ms. Andres asked Mr. Broderick about the payment to Earth Tech Environmental, LLC. Mr. Broderick explained that the Board entered into a separate agreement with FP&L and FP&L contributed to the mitigation cost of the solar array and for the next 5 years Earth Tech will need to remove the exotics to a certain level and it is for the mitigation of the panther impacts and the wetland impacts out on the solar array and that is what is being paid for directly to Johnson for the monitoring and reporting that goes to the agencies and Earth Tech does the physical work. There were no other questions. Dr. Fishkind requested a motion to ratify Payment Authorizations #4-11.

On MOTION by Ms. Andres, seconded by Mr. Nelson, with all in favor,  
the Board ratified Payment Authorizations #4-11.

**Statement of District Financial  
Position**

There was no action required by the Board.

**FOURTH ORDER OF BUSINESS**

**Other Business**

**Staff Reports**



**Attorney-** Ms. Willson stated that she will continue to get all of the documents and agreements in final form and over to the Chairman for execution. She is working on the continued work for the Lee County Bond Validation and the process is underway and there is not an exact timeline yet for when that will come before the Board. She noted that the legislative session will start in March and she will continue to monitor any activity and provide the Board with any updates. The District will start getting the Attorney's capital reports on all of the legislative actions and she will highlight anything that the Board should be interested in. Mr. Johnson added that that it may be a few months before the District Attorney goes ahead with the Bond Validation for the Utility transaction and for the Lee County Projects and they will keep the Board updated.

**Engineer-** No Report

**Manager-** The next meeting is scheduled for March 23, 2017

**Status Report on Construction-**

Mr. Broderick stated that everything is going well on site.

**FIFTH ORDER OF BUSINESS**

**Audience Comments and Supervisors Requests**

There were no Supervisor requests or audience comments.

**SIXTH ORDER OF BUSINESS**

**Adjournment**

There were no further questions or comments. Dr. Fishkind requested a motion to adjourn.

On MOTION by Ms. Andres, seconded by Mr. Nelson, with all in favor, the January 26, 2017 Board of Supervisors meeting for the Babcock Ranch Community Independent Special District was adjourned.

  
Secretary/Assistant Secretary

  
Chairman