

**MINUTES OF THE MEETING OF THE
TIRZ 17 REDEVELOPMENT AUTHORITY/MEMORIAL CITY REDEVELOPMENT AUTHORITY
CITY OF HOUSTON, TEXAS
BOARD OF DIRECTORS**

March 29, 2016

ESTABLISH QUORUM AND CALL MEETING TO ORDER.

The Board of Directors of the TIRZ 17 Redevelopment Authority/Memorial City Redevelopment Authority, City of Houston, Texas, held a regular meeting on Tuesday, March 29, 2016, at 8:00 a.m., at the Four Points by Sheraton, 10655 Katy Freeway, Wycliffe Room, Houston, Texas 77024, inside the boundaries of the TIRZ, open to the public, and the roll was called of the duly appointed members of the Board, to-wit:

Position 1 – vacant

Position 2 – John Rickel

Position 3 – Bob Tucker, *Asst. Secretary*

Position 4 – Ann T. Givens, *Chair*

Position 5 – Zachary R. Hodges

Position 6 – Brad Freels, *Vice-Chair*

Position 7 – Glenn E. Airola, *Secretary*

and all of the above were present, thus constituting a quorum. Also present were consultants Scott Bean and Linda Clayton, both of Hawes Hill Calderon, LLC; and Jessica Holoubek, Allen Boone Humphries Robinson, LLP. Others attending the meeting were Jennifer Curley, COH - Economic Development; Michelle Lofton, ETI Bookkeeping Services; Gary Hill and Jack Valinski, COH; Council Member Greg Travis; James Vick, SWA; Bart Standley, Klotz Associates, Inc.; Jim Webb, The Goodman Corporation; Andy Beaupre, Moody Rambin; Muhammad Ali, LAN; Jennifer Steen, Half Associates Pat Walters and Ben Gillis, Memorial Management District; Dean Bixler, Ginny Abiassi, Bruce Nichols, John Jackson, Hugh Rawl, Roberta Prazak, David Tresch, Virginia Gregory, Kelly Landwermyer, Lynn McBride, Jim Shroff, Robert Benz, Arlis Brodie, Ed Browne, Lois Myers and Marjorie Lott. Chair Givens called the meeting to order at 8:01 a.m.

RECEIVE PUBLIC COMMENTS.

Virginia Gregory had questions regarding the Development Agreement with Lipex and former Executive Director Don Huml speaking with the City regarding a variance on Mathewson Road. Marjorie Lott stated she lived in the Legend Lane Townhomes and asked questions regarding plans for drainage in her neighborhood and discussed flooding issues. Roberta Prazak reminded everyone there was a public meeting being held on April 13 regarding the widening of Gessner Road. Ms. Prazak also asked questions regarding construction south of the Conrad Sauer detention. Lois Myers discussed flooding issues, including loss of sentimental valuables.

APPROVE MINUTES OF JANUARY 26, 2016, REGULAR MEETING.

Revised Minutes from the January 26, 2016, board meeting were handed out, a copy is attached as Exhibit A. Upon a motion duly made by Director Airola, and being seconded by Director Rickel, the Board voted unanimously to approve the Minutes of the January 26, 2016, Board meeting.

RECEIVE FINANCIAL AND BOOKKEEPER'S REPORT, INCLUDING PAYMENT OF INVOICES, REVIEW OF INVESTMENTS AND PROJECT CASH FLOW REPORTS.

Ms. Lofton presented the Bookkeeper's Report and went over invoices, included in the Board agenda materials. Upon a motion duly made by Director Freels, and being seconded by Director Rickel, the Board voted unanimously to accept the Bookkeeper's Report and approved payment of invoices, as presented.

CONSIDER FOR APPROVAL AGREEMENT FOR MAINTENANCE OF ENHANCED AMENITIES ALONG TOWN & COUNTRY BOULEVARD.

Ms. Holoubek reviewed the Agreement with BR T&C Blvd., LLC, included in the Board agenda materials. She reported the agreement was to maintain improvements including landscaping outside the right-of-way on Town & Country Blvd. Upon a motion duly made by Director Rickel, and being seconded by Director Givens, the Board voted unanimously to approve the Agreement for Maintenance of Enhanced Amenities along Town & Country Boulevard, as presented.

CONSIDER FOR APPROVAL FIRST AMENDMENT TO INTERLOCAL AGREEMENT WITH MEMORIAL MANAGEMENT DISTRICT.

Ms. Holoubek reviewed the First Amendment to Interlocal Agreement with Memorial Management District, included in the Board agenda materials. She reported the amendment was amending Exhibit A to the original Interlocal Agreement. There was general discussion regarding the project corridor on page 2 of Exhibit A should be extended to Tallowood Rd. Upon motion duly made by Director Airola, and being seconded by Director Freels, the Board voted unanimously to approve the First Amendment to Interlocal Agreement with Memorial District, as amended showing the project corridor on page 2 of Exhibit A extended to Tallowood Rd.

RECEIVE AND CONSIDER PROPOSAL FROM GOODMAN CORPORATION FOR ONGOING SERVICES RELATED TO TIP FUNDING FOR NORTH GESSNER AND MEMORIAL DRIVE.

Mr. Webb reviewed the proposal from The Goodman Corporation for ongoing services, included in the Board agenda materials. He stated the proposal was regarding the North Gessner and Memorial Drive TIP funded projects for professional services to oversee implementation of the projects. He answered questions regarding the scope of services included in the agreement. He stated the agreement was for twelve months and did not include services to the end of the projects. He reported billing would be made based on the percentage of completion of each task. He stated he would estimate The Goodman Corporation's ongoing services for the projects would approximately total \$350,000. Upon a motion duly made by Director Rickel, and being seconded by Director Freels, the Board voted unanimously to approve

the Contract with The Goodman Corporation for ongoing services related to TIP funding for North Gessner and Memorial Drive in the amount of \$130,000, as presented.

RECEIVE SWA PROJECTS STATUS REPORT.

Mr. Vick presented SWA's project status report, included in the Board agenda materials. He reported SWA has submitted 90% design documents on the Town & Country project. No action from the Board was required.

RECEIVE ENGINEER'S REPORT FROM LAN INCLUDING:

a. Lumpkin Road Improvements project construction status.

Mr. Ali provided an update on the Lumpkin Road project, a status report is included in Board agenda materials. He reported most all major construction tasks were completed.

b. Consider approval of time modifications, changes in work or pay applications.

Mr. Ali reviewed pay application #13 from SER Construction Partners in the amount of \$387,964.25, included in the Board agenda materials. He reported SER has complied with all requirements in the pay application and LAN was recommending it for approval. Upon a motion duly made by Director Rickel, and being seconded by Director Airola, the Board voted unanimously to approve for payment pay application #13 from SER Construction Partners in the amount of \$387,964.25, as presented.

Mr. Ali reviewed pay application #14 from SER Construction Partners in the amount of \$330,767.02, included in the Board agenda materials. He reported SER has complied with all requirements in the pay application and LAN was recommending it for approval. Upon a motion duly made by Director Rickel, and being seconded by Director Airola, the Board voted unanimously to approve for payment pay application #14 from SER Construction Partners in the amount of \$330,767.02, as presented.

c. Consider proposal for Supplemental Construction Management & Inspection Services for Lumpkin Road project (Spiller's Lane drainage installation).

Mr. Ali went over LAN's proposal for supplemental construction management and inspection services for Lumpkin Road – Spiller's Lane drainage installation, included in the Board agenda materials, and answered questions. Upon a motion duly made by Director Freels, and being seconded by Director Hodges, the Board voted unanimously to approve LAN's proposal for supplemental construction management services for Lumpkin Road – Spiller's Lane drainage installation at an estimated cost of \$33,000, as presented.

d. Consider proposals for Four Points by Sheraton parking lot extension.

- a. Consider proposal for construction phase engineering services.**
- b. Consider proposal for construction management and inspection services.**
- c. Consider proposal for construction materials engineering services.**

Mr. Ali went over each proposal, included in the Board agenda materials, and answered questions. He reported the parking lot extension project was included in the FY2015 budget. He reported since the project was bid in November and the bids were only good for six months, LAN was recommending the Board move forward with the project. He reported the proposals were on an hourly basis. After further discussion the Board requested each proposal to state on "an hourly basis in an amount not to exceed". Upon a motion duly made by Director Airola, and being seconded by Director Rickel, the Board voted to (a) approve LAN's proposal for construction phase engineering services for the Four Points by Sheraton parking lot extension project subject to amending the proposal to state on an hourly basis in an amount not to exceed \$10,850.00; (b) approve LAN's proposal for construction management and inspections services for the Four Points by Sheraton parking lot extension project subject to amending the proposal to state on an hourly basis in an amount not to exceed \$28,250.00; and (c) approve LAN's proposal for construction materials engineering services for the Four Points by Sheraton parking lot extension project subject to amending the proposal to state on an hourly basis in an amount not to exceed \$11,330. Director Freels abstained.

e. Other engineering matters and projects.

Mr. Ali provided an update on the Memorial Drive project. He reported dual 10x10 boxes with restrictors would be installed and there was no plan to increase the flow into W153.

Director Rickel discussed and asked questions regarding the CIP for FY2016. Ms. Curley reported to be able to move forward on projects the budget would need to be approved. There was a lengthy discussion regarding the FY2016 budget. There was general discussion that the Board would be working on the CIP for FY2017 and not FY2016. There was discussion regarding the TIRZ contribution to the City for the incremental increase in municipal services. Council Member Travis provided information on the municipal services fee.

RECEIVE ENGINEER'S REPORT FROM KLOTZ ASSOCIATES INCLUDING:

- a. Letter from Wayne Klotz**
- b. Other engineering matters and projects.**

Mr. Standley reported projects were consistent with last month and were approximately 90% complete. Director Rickel reviewed Wayne Klotz' letter, included in the Board agenda materials, and stated that he believed there to be factual errors in the letter. He pointed out the last paragraph on page 1 was not accurate in that he does not believe both projects will need to be redone from the beginning. He further noted that the statement on page 2 that North Gessner project is 60-65% complete does not match the percent completion for which the Authority has been billed. Director Rickel stated that the Authority has been billed for 92% project completion. He further stated the letter indicates the Briar Branch project is 65-70% complete and Klotz' billings indicate the project is 95% complete. Director Rickel stated he believes a refund is due the Authority. Mr. Standley responded that the percentage complete is for phase 1 of the projects. He further stated when considering work to be completed for phase 2, the projects were only 60-65% complete. Mr. Standley responded on statements made in the last paragraph on page 1 regarding licensing regulations for professional engineers.

Director Tucker provided a handout to the Board titled "A Summary of the Cost Klotz Associates has been to TIRZ 17", a copy is attached as Exhibit B. He reviewed the handout, stating that he believes Klotz has a conflict of interest in its representation of MetroNational and the Authority. Director Tucker made a motion to terminate Klotz Associates. Ms. Holoubek stated this subject was not included on the agenda and therefore not an action that the board could entertain. Director Rickel stated he supports the motion. She further informed the Board that because Klotz has completed all previously authorized work orders, the question is not to terminate Klotz but whether to engage Klotz for any further work. She further advised the Board this item was not on the agenda and no action could be taken without proper legal notice. Ms. Holoubek explained the two-step process in engaging an engineer for professional engineering services. She reported first the Board would need to consider qualifications and then negotiate a scope of work and fair price for such work. Chair Givens requested Director Tucker to withdraw his motion. Director Tucker stated he would withdraw his motion with the understanding that the item would be on the agenda next month. Chair Givens stated she would follow the Board's attorney's recommendation. Director Rickel reminded the Board under its guidelines when two Board members request something be on the agenda, the item must be included. He then requested the item be placed on the agenda.

RECEIVE ENGINEER'S REPORT FROM GUNDA CORPORATION INCLUDING:

- a. **Town and Country at Queensbury Intersection Improvements.**
- b. **Other engineering matters and projects.**

Mr. Vijayagopal provided an update and presentation on Town & Country Blvd. and Queensbury Lane Intersection Realignment and Signalization, included in the Board agenda materials. No action from the Board was required.


CONVENE IN EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO CONDUCT A PRIVATE CONSULTATION WITH ATTORNEY WITH REGARD TO PENDING OR CONTEMPLATED LITIGATION.

RECONVENE IN OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION REGARDING PRIVATE CONSULTATION WITH ATTORNEY WITH REGARD TO PENDING OR CONTEMPLATED LITIGATION.

An executive session was not called.

ADJOURNMENT.

There being no further business to come before the Board, Chair Givens adjourned the meeting at 9:21 a.m.



Secretary

List of Exhibits:

- A. Revised Minutes from January 26, 2016, Board meeting.
- B. Handout provided by Director Tucker "A Summary of the Cost Klotz Associates has been to TIRZ17".

**MINUTES OF THE MEETING OF THE
TIRZ 17 REDEVELOPMENT AUTHORITY/MEMORIAL CITY REDEVELOPMENT AUTHORITY
CITY OF HOUSTON, TEXAS
BOARD OF DIRECTORS**

January 26, 2016

ESTABLISH QUORUM AND CALL MEETING TO ORDER.

The Board of Directors of the TIRZ 17 Redevelopment Authority/Memorial City Redevelopment Authority, City of Houston, Texas, held a regular meeting on Tuesday, January 26, 2016, at 8:00 a.m., at the Four Points by Sheraton, 10655 Katy Freeway, Wycliffe Room, Houston, Texas 77024, inside the boundaries of the TIRZ, open to the public, and the roll was called of the duly appointed members of the Board, to-wit:

Position 1 – vacant

Position 2 – John Rickel

Position 3 – Bob Tucker, *Asst. Secretary*

Position 4 – Ann T. Givens, *Chair*

Position 5 – Zachary R. Hodges

Position 6 – Brad Freels, *Vice-Chair*

Position 7 – Glenn E. Airola, *Secretary*

and all of the above were present, thus constituting a quorum. Also present were consultants Scott Bean and Linda Clayton, both of Hawes Hill Calderon, LLC; and Jessica Holoubek, Allen Boone Humphries Robinson, LLP. Others attending the meeting were Jennifer Curley, COH - Economic Development; Michelle Lofton, ETI Bookkeeping Services; Muhammad Ali and Derek St. John, Lockwood Andrews & Newman, Inc.; Edward Conger, Klotz Associates, Inc.; Council Member Greg Travis and Sally Alcorn, District G; Jack Valinski, COH; Pat Walters, Memorial City Management District;; Tony Sartori and Mike Voinis, Halff Associates; Dean Bixler, Virginia Gregory, Ed Browne, Peter Tomlin, Steve Smith, Donna Collum, Paul Buescher, Jim Muckle, David Tresch, Bruce Nichols, Lois Myers and Donna Freedman. Chair Givens called the meeting to order at 8:02 a.m.

PUBLIC COMMENTS.

Bruce Nichols discussed detention south of IH-10. Dean Bixler discussed flooding issues and impact on the community. Virginia Gregory discussed planting plants/trees standards set by CenterPoint and variances at the Lipex property. Ed Browne discussed the regional drainage study, flooding event and FEMA/insurance rates. Lois Myers discussed flooding issues and value of homes declining. Donna Freedman discussed the seating configuration for the meetings and difficulty hearing during meetings.

APPROVE MINUTES OF DECEMBER 15, 2015, REGULAR MEETING.

Upon a motion duly made by Director Rickel, and being seconded by Director Airola, the Board voted unanimously to approve the Minutes of the December 15, 2015, board meeting, as presented.

RECEIVE FINANCIAL AND BOOKKEEPER’S REPORT, INCLUDING PAYMENT OF INVOICES, REVIEW OF INVESTMENTS AND PROJECT CASH FLOW REPORTS.

Ms. Loftin provided a handout of a revised bookkeeper’s report, a copy is attached as Exhibit A. She reviewed the report and went over invoices. She reported the check for maintenance on the detention basin was the last payment. There was general discussion as to when the maintenance would be transferred over to Flood Control. Upon a motion duly made by Director Rickel, and being seconded by Director Hodges, the Board voted unanimously to accept the Financial and Bookkeeper’s Report and approved payment of invoices, as presented.

CIP UPDATE.

Mr. Bean reported comments had been received from the City, a copy of the City’s letter is included in the Board agenda materials. Director Rickel reported the CIP Committee (Ann Givens, Brad Freels and John Rickel) met with Andy Icken to discuss the CIP. He reported that the City provided input on the CIP plan submitted in September and that the City had requested evaluation of an alternative site for one of the south of I-10 detention basins. He reported the Committee voiced concerns about the viability of the City’s alternative site and it was agreed with the City that an appraisal would be ordered to determine the economic feasibility of their alternative location. No action was taken by the Board.

RECEIVE ENGINEER’S REPORT FROM LAN INCLUDING:

- a. Lumpkin Road Improvements Project construction status;**
- b. Consider approval of time modifications, changes in work or pay applications; and**
- c. Other engineering matters and projects.**

Mr. Ali provided an update on the Lumpkin Road Reconstruction and Drainage Improvements project, a copy of LAN’s report is included in the Board agenda materials. He reported an approximate 4% overrun of construction costs. There was general discussion regarding additional excavation at the bottom of the basin, additional geotesting of the soils and additional hours for police officers. He reported the goal is to have the final change order in February. He reported he had three action items for consideration (1) Change Order from SER in the amount of \$178,401.97; (2) Pay Application No. 11 from SER Construction in the amount of \$1,013,677.03; and (3) Pay Application No. 12 from SER Construction in the amount of \$973,584.64. The Board will consider the Change Order after entering into Executive Session and discussing other issues. Upon a motion duly made by Director Tucker, and being seconded by Director Hodges, the Board voted unanimously to approve the 4% overrun of construction costs. Upon a motion duly made by Director Rickel, and being seconded by Director Hodges, the Board voted unanimously to approve Pay Application No. 11 from SER Construction in the amount of \$1,013,677.03. Upon a motion duly made by Director Rickel, and being seconded by Director Airola, the Board voted unanimously to approve Pay Application No. 12 from SER Construction in the amount of \$973,584.64.

RECEIVE ENGINEER’S REPORT FROM KLOTZ ASSOCIATES INCLUDING:

- a. Updates on W140 Channel Improvements and related flood mitigation improvements;**

- b. Updates on North Gessner; and
- c. Other engineering matters and projects.

Mr. Conger provided an update on the W140 Channel Improvements project and North Gessner project, a copy of Klotz' status reports are included in the Board agenda materials. He reported both projects are on hold until the 2016 budget is approved. No action from the Board was required.

RECEIVE COMMITTEE REPORT AND RECOMMENDATIONS ON RESPONSES TO REQUEST FOR QUALIFICATIONS FOR CIVIL ENGINEERING SERVICES.

Director Rickel reported the Committee met and reviewed six responses to the Request for Qualifications for civil engineering services. He reported in the Committee's recommendation for an additional engineer it took in consideration engineering firms demonstrating qualifications and competence in design and construction management for drainage and street infrastructure projects. He stated that special consideration was also given to firms specifically familiar with Infosystem software, the software used by LAN in connection with the Authority's regional drainage study, and to those firms that did not have an existing working relationship with any of the major developers in the TIRZ. He reported after full consideration of qualifications, the Committee was recommending engaging Halff Associates as an additional engineer for the Authority. Director Rickel further stated the Committee was recommending terminating Klotz Associates and engaging Halff Associates to take cover the existing three projects for which Klotz had been previously engaged. Director Rickel made a motion to engage Halff as an additional engineer, to terminate Klotz, to authorize Halff to complete the three projects for which Klotz had been previously engaged and to further authorize the Executive Director to facilitate the transition within the next thirty days. Attorney Holoubek informed the Board that engaging an engineer to perform professional engineering services would need to be a two-step process. She reported first, the Board would need to consider qualifications and engage the firm determined to be most highly qualified. She reported then the Board could separately and subsequently negotiate a scope of work and fair price for such work. She further stated that the Authority did not need to terminate its contract with Klotz because, as indicated by Mr. Conger earlier, Klotz had completed all work previously authorized by the Board. Director Rickel at this time stated he was removing his previous motion and would make a new motion. There was general discussion regarding the financial impact in changing engineer firms for any of the three projects for which Klotz had been engaged. Director Freels noted that Halff had indicated that they would not charge the Authority to "get up to speed" on these projects. Upon a motion duly made by Director Rickel, and being seconded by Director Airola, the Board voted to engage Halff Associates as an additional engineer and directed the Executive Director to negotiate a master engineering services agreement with Halff Associates as well as to negotiate work authorization proposals for the three current projects for which Klotz Associates had been previously engaged. Directors Rickel, Tucker, Hodges, Freels and Airola voted aye. Chair Givens opposed. The motion passed.

RECEIVE SWA PROJECTS STATUS REPORT.

Mr. Vick provided an update on projects, a copy of SWA's progress report is included in the Board agenda materials. He reported SWA is coordinating with LAN on the Lumpkin and Town & Country projects. No action from the Board was required.

RECEIVE TIP CALL FOR PROJECTS UPDATE FROM THE GOODMAN CORPORATION.

This item was tabled.

CONVENE IN EXECUTIVE SESSION PURSUANT TO SECTION 551.071, TEXAS GOVERNMENT CODE, TO CONDUCT A PRIVATE CONSULTATION WITH ATTORNEY, WITH REGARD TO PENDING OR CONTEMPLATED LITIGATION; AND CONVENE IN EXECUTIVE SESSION PURSUANT TO SECTION 551.072, TEXAS GOVERNMENT CODE, TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY.

An executive session was called at 8:55 a.m.

RECONVENE IN OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION REGARDING PRIVATE CONSULTATION WITH ATTORNEY, WITH REGARD TO PENDING OR CONTEMPLATED LITIGATION; AND RECONVENE IN OPEN SESSION AND AUTHORIZE APPROPRIATE ACTION REGARDING THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY.

The Board reconvened in open session at 9:18 a.m.

Upon a motion duly made by Director Tucker, and being seconded by Director Airola, the Board voted unanimously to authorize purchase of a drainage easement.

Upon a motion duly made by Director Tucker, and being seconded by Director Freels, the Board voted unanimously to engage Integra for appraisal of the proposed property for detention south of IH-10.

Upon a motion duly made by Director Rickel, and being seconded by Director Tucker, the Board voted unanimously to approve the Change Order from SER Construction in the amount of \$178,401.97.

AUTHORIZE ENGAGEMENT OF APPRAISER.

This item was authorized after reconvening from executive session.

ADJOURNMENT.

There being no further business to come before the Board, Chair Givens adjourned the meeting at 9:19 a.m.

Secretary

List of Exhibits:

- A. Revised Bookkeeper's Report, dated December 31, 2015.

TIRZ 17 and Klotz Associates

A Summary of the Cost Klotz Associates has been to TIRZ 17

The unnecessary loss of a significantly large detention pond
The loss of an undetermined part of \$23,000,000
The loss of professional trust

The Beginning

Mr. Don Huml was hired as the Executive Director of TIRZ 17.

Mr. Huml recommended that a second engineering firm, in addition to Lockwood, Andrews & Newnam (LAN), be engaged by the Board. Klotz Associates was so engaged. The work of the two firms was divided between Klotz north of I-10 and LAN south of I-10. Some of the work already started by LAN would continue with that firm, e.g., Lumpkin Road.

Westview Detention Pond

The TIRZ Board became excited by the possibility of two potential sites for detention along Gessner Road: the apartment complex on the south side of Westview between Gessner Road and Conrad Sauer and the SBISD Bus Barn between Gessner Road and Witte Road. Board Member Brad Freels spent a year pursuing the apartment complex owner. Finally found, the owner was open to TIRZ purchasing his complex. Four factors doomed this Board effort.

1. First, the absurdly low benefit-cost ratio of developing that site, prepared by Klotz Engineering, made it unacceptable by the appropriate City's authority.
2. Second, the immediate submission of that Klotz Report to the City by our Executive Director, without Board review, outraged and then sapped the energy of the Board to pursue this project.
3. Third, a restudy and resubmission by Klotz, without changing their assumptions, was insufficient to adequately change the benefit-cost ratio desired by the City.
4. Fourth, lack of response to our submissions by the City of Houston's Chief Development Officer kept the matter in limbo.

Board Member Tucker questioned Klotz's site assumptions on which the low benefit-cost ratio was derived, both in a Board meeting and in an hour-long consultation with two Klotz engineers. Both times different (and reasonable) assumptions were put forth that would have easily provided a positive benefit-cost ratio well above the desired the City's guidelines, making the use of the apartment complex for detention entirely feasible. No assumption was changed by Klotz that would have made the project acceptable. The second submission by Klotz, supplemented by an evaluation by LAN (a report that the Board never saw), raised the benefit-cost figure, but insufficiently.

This new estimate was sent to the City of Houston's Chief Development Officer, and no response was forthcoming. Added on to the low benefit-cost ratio, the 'pocket veto' was the final demise of the Westview-Gessner detention area.

Conrad Sauer Detention Pond

The Board signed a \$23,000,000 contract with Lipex (MetroNational) for the development of the current Conrad Sauer Detention Pond. In contrast to the Westview attention Pond, Klotz found a way to justify the benefit-cost of this expenditure, not by raising significantly the detention capacity, but by re-labeling the already current capacity of the Pond. Klotz did this by making a two-year rain event the norm. Their 'new' detention above that was figured as the benefit-cost for the Board's \$23,000,000 expenditure. The unanswered question was where water from a hundred-year event would now go other than flooding properties. (Note: we have had two hundred-year events in 1999 and 2015—within six years of each other!)

The Ethics of a Conflict of Interest

As a professional, and consciously aware of the benefit that the professions have brought to our society, I strongly hold to the codes of ethics each professional group has worked out for its members. Without such standards, it is easy for professionals to slip into self-serving behavior that works to the detriment of clients. One universal part of professional ethics is the prohibition of a conflict of interest. Even if a conflict of interest is permitted in unusual and rare circumstances, strict boundaries are to be maintained, and it is the job of the professional to make and keep clients aware of such conflicts. Noted here are the ethical guidelines (with the appropriate URLs) of three professions—law, counseling and engineering.

American Bar Association Center for Professional Responsibility: Rule 1.7 Conflict Of Interest. < https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_7_conflict_of_interest_current_clients/comment_on_rule_1_7.html >

[8] Even where there is no direct adverseness, a conflict of interest exists if there is a significant risk that a lawyer's ability to consider, recommend or carry out an appropriate course of action for the client will be materially limited as a result of the lawyer's other responsibilities or interests. ... The critical questions are the likelihood that a difference in interests will eventuate and, if it does, whether it will materially interfere with the lawyer's independent professional judgment in considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of the client.

[18] Informed consent requires that each affected client be aware of the relevant circumstances and of the material and reasonably foreseeable ways that the conflict could have adverse effects on the interests of that client.

American Counseling Association Code of Ethics: A.8. Multiple Clients. < <https://www.counseling.org/resources/aca-code-of-ethics.pdf> >

When a counselor agrees to provide counseling services to two or more persons who have a relationship, the counselor clarifies at the outset which person or persons are clients and the nature of the relationships the counselor will have with each involved person. If it becomes apparent that the counselor may be called upon to

perform potentially conflicting roles, the counselor will clarify, adjust, or withdraw from roles appropriately.

National Society of Professional Engineers Code of Ethics for Engineers: Rules of Practice: A.8. Multiple Clients. < <http://www.nspe.org/resources/ethics/code-ethics>>

Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.

It does need to be recognized that the TIRZ Board was informed early that Klotz Associates had added, in addition to TIRZ 17, MetroNational as a client. However, never in Klotz presentations was this dual relationship referred to, as the Code of Ethics states, even at times when facts were presented that benefited MetroNational over TIRZ 17. Board Members may have been remiss in not challenging Klotz's presentations, however it is the professional, in this case Klotz, who should have repeatedly notified the Board of the potential ethical conflicts in the figures presented.

Although he has no professional status in this matter, even Rabbi Jesus is reported to have warned, "No one can serve two masters..." (Matthew 6:24, Luke 16:13).

Respectfully submitted,

Robert Tucker, Position Three
Board of Directors
Tax Increment Reinvestment Zone 17
City of Houston, Texas