

**MINUTES OF MEETING OF  
THE BOARD OF DIRECTORS OF  
NORTHTOWN MUNICIPAL UTILITY DISTRICT**

January 22, 2008

THE STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS           §

A meeting of the Board of Directors of Northtown Municipal Utility District was held on January 22, 2008, at the Wells Branch Community Center, 2106 Klattenhoff Drive, Austin, Texas. The meeting was open to the public and notice was given as required by the Texas Open Meetings Act. A copy of the Certificate of Posting of the Notice is attached as **Exhibit “A”**.

The roll was called of the members of the Board:

Texana Kowis	-	President
Robin Campbell	-	Vice President
Brenda Richter	-	Secretary
Michael Zeniecki	-	Assistant Secretary
William E. Henderson	-	Treasurer

and all of the Directors were present, except Director Henderson, thus constituting a quorum. Also present at the meeting were Mike Morin of ECO Resources, Inc.; Sam Jones of Sam Jones Consulting; Richard Fadal of TexaScapes, Inc.; David Armistead of the Wildflower Homeowners’ Association; Don Williams and Mona Oliver of Wells Branch Municipal Utility District; Cheryl Allen and Linda Loup of Southwest Securities; John Cavazos and Christine Robinson of Dessau Fountains Estates; Scott Manuel of Severn Trent; Sharon Collier, B.J. Mayorga, Margaret Leal, Mary Gerdes and Georgina Labastida, residents of the District; Deputy Keith Kinnard of the Travis County Sheriff’s Department and Sue Brooks Littlefield of Armbrust & Brown, L.L.P.

Director Kowis called the meeting to order at 5:45 p.m., and stated that the Board would first consider the consent items on the Board’s meeting agenda: the minutes of the December 18, 2007 Board meeting; a revised District Registration Form to update Mr. Jones’ office address; the revised Resolution Establishing Offices and Meeting Places of the Board of Directors and Establishing Locations for the Posting of Notice of Meetings of the Board attached as **Exhibit “B”** and the revised Secretary’s Certificate and Resolutions Regarding Manager’s Account attached as **Exhibit “C”**. Upon motion by Director Richter and second by Director Campbell, the Board voted unanimously to approve the consent items.

Director Kowis stated that the Board would next receive citizens’ communications, and noted that, as the Board had a heavy business meeting agenda, each resident would be requested to keep their comments to a maximum of three minutes. She recognized Ms. Collier, who stated that there had been a major episode at the Silverado Wastewater Treatment Plant on November 28<sup>th</sup>. She stated that the treatment plant had been a concern of hers for a number of years, and that she had called the City, County, Texas Commission on Environmental Quality (the “Commission”), and Severn Trent following the incident. She stated that the creek was severely

contaminated and that it had been that way a long time. She stated that the Commission had taken samples, and was very concerned. Ms. Collier indicated that a lot of people went through the creek, and that she was concerned about contamination issues that might affect them. She stated that Severn Trent had been pumping sludge from the creek, and that there were algae and worms in the water. She stated that she would continue to sample the water, and was very interested in coordinating an endeavor with Keep Austin Beautiful to clean up the creek area. Director Kowis agreed that people should not be going into the creek, as it could pose a health hazard. Director Richter requested that Mr. Carlton of Ms. Littlefield's office be asked to follow up with the Commission and the City on the proper procedures to clean-up the creek, and whether residents should be notified of the problem. Ms. Littlefield agreed to do so.

Director Kowis explained that the District had been working for several years to get the wastewater treatment plant taken off-line, and had agreed to accept flows from the trailer park in order to accomplish this. Director Kowis added that the District would have its portion of the necessary line work completed in about 90 days. Mr. Jones stated that the wastewater treatment plant owner would not have its portion of the line completed when the District's line was complete, and that he expected it to be October or November before all of the facilities were constructed so that the wastewater treatment plant could be taken off-line. Ms. Collier commended the governmental entities for responding to the situation, and noted that the Commission had responded much better than in years past. Ms. Collier indicated that the City of Austin's representatives had indicated that the District, in conjunction with the County, was responsible for cleaning up the creek. Director Kowis responded that she was not sure whose property was affected, but stated that the District would work with the County to coordinate the clean-up. After discussion, the Board requested that Ms. Littlefield determine who owned the property in the creek which was affected by the spill, and work with the County to get the matter addressed. Ms. Collier inquired whether the District had assured that it could take the effluent from the trailer park, and Director Kowis responded that the District had done all of the necessary studies, and had spent a considerable sum in order to construct the necessary infrastructure to accomplish this. The Board directed Ms. Littlefield to prepare and file a formal complaint with the Commission about the spill, and to request assurance that the wastewater treatment plant operator would be required to address any damages which had resulted from this spill, including the creek clean-up. Ms. Collier indicated that she had obtained information on the Keep Austin Beautiful program, and wondered whether the District would assist her in getting this information distributed. Director Kowis responded that the District could include fliers in the District's utility bills, and could also include information on the District's website.

Director Kowis then recognized B.J. Mayorga, who stated that he was present in order to address the Board regarding the installation of speed bumps on Merseyside Drive. He stated that there were children in the neighborhood, and that there had been two accidents reported. He indicated that the Sheriff's department had suggested that the speed on Harris Ridge was part of the problem. Director Zeniecki stated that the County would have to reduce the speed on the roadway before speed bumps could be installed. Mr. Mayorga also complained that there was no security in his neighborhood, and suggested that the District look into installing a fence behind the neighborhood. He stated that he was concerned about individuals breaking-in. Ms. Littlefield advised Mr. Mayorga that the District could not install speed bumps, as it did not own the roads. She noted that the County was responsible for the roads, but that she believed the County would not allow the installation of speed bumps, based on previous policy decisions.

Director Kowis then recognized Mary Gerdes who stated that she was a resident of the District who lived on Creek Cross and that she supported everything the other residents had said. She stated that she had been concerned that the District was taking effluent from the wastewater treatment plant, but was pleased to hear that the Board had planned on doing this. There being no other residents wishing to address the Board, Director Kowis thanked all of the residents present for coming to the Board meeting, and advised the residents that the Board was very concerned and had been working with Ms. Collier on the problems posed by the wastewater treatment plant operating in the trailer park for many years. She stated that the Board would continue to work to have the plant taken off-line, and explained that the Commission would generally not disapprove the renewal of a discharge permit unless there was an alternative service provider. She stated that the District had been required to provide an alternative in order to obtain its goal of having the plant decommissioned.

Director Kowis then stated that the Board would receive a report under the Interlocal Agreement with Wells Branch Municipal Utility District, and recognized Mr. Williams. Mr. Williams distributed photos of improvements to the District's soccer field areas, as well as other maintenance items which had been addressed by the Wells Branch crews during the previous month. He stated that he had a meeting scheduled the following day to go over the park grant requirements.

Director Kowis then recognized Ms. Oliver, for purposes of receiving a report regarding restrictive covenant enforcement. Ms. Oliver advised the Board that she recommended proceeding with litigation with respect to a trash can in public view at 13810 Greinert. The Board discussed its reluctance to proceed to litigation with respect to a trash can. After discussion, the Board agreed that Ms. Littlefield should send one final letter, in plain English, requesting that the resident please put the trash can in their garage or back yard, so that it was out of view, in order to avoid the necessity of the District spending public funds in order to compel compliance with the covenants.

Director Kowis then recognized Mr. Armistead, for purposes of receiving the Wildflower Homeowners' Association restrictive covenant report, and Mr. Armistead reported that the goats on the Shugan property had been removed. He stated that he was still working on routine matters, and trying to get the fences under control.

Director Kowis then stated that the Board would receive a report regarding park development matters. Director Richter encouraged the Board members to look at the 50 acre park following the clean-up work which had been done by TexaScapes, Inc. She stated that the park looked very nice, and commended Mr. Fadal's staff for doing an excellent job. She also reported that reflective tape had been placed on the bridge near the lift station, as recommended by the City of Austin. Director Richter reported that she had authorized Mr. Morin to purchase a vandal-proof light fixture for the lift station, and had also met with Deputy Kinnard on the lighting being considered. She stated that she recommended putting up two 20-foot poles on either side of the bridge to allow the installation of better lighting and improving visibility in this area. Director Kowis inquired whether the park boundaries had been located, and Ms. Littlefield confirmed that the original surveyor had located the boundaries and flagged them. Mr. Fadal stated that he had met with the surveyor, and confirmed that the work which had been done was satisfactory for his use.

Director Kowis then recognized Mr. Fadal, for purposes of receiving the landscape maintenance report. Mr. Fadal reviewed his report, a copy of which is attached as **Exhibit “D”**, and stated that he had confirmed that the City of Austin had moved its monitoring equipment, and that the condition of the pond after the removal of the equipment was acceptable. He stated that Phases 1 through 4 of the rough clearing work in the park were substantially done, and that the Park Subcommittee was scheduled to tour the area on February 7. He stated that he was working on Phase 5, and that he had included a proposal in the packet for the annual clearing of the pond and creek area in Wildflower and Meadow Pointe. Director Richter moved approval of the proposal, a copy of which is attached as **Exhibit “E”** and, upon second by Director Zeniecki, the motion was unanimously adopted.

Mr. Fadal then presented the proposal for revegetation of the Dessau Fountains Lift Station project, a copy of which is attached as **Exhibit “F”**. Director Kowis asked for confirmation that the cost would not exceed \$12,000, which was the amount which had been deleted from the original construction contract. Mr. Fadal confirmed this. After discussion, upon motion by Director Richter and second by Director Zeniecki, the Board voted unanimously to approve the proposal.

Director Kowis then recognized Mr. Morin, for purposes of receiving a report from the District’s general manager. Mr. Morin stated that the District’s water loss was acceptable, and Director Zeniecki reported that water was being taken from a fire hydrant meter on Harris Ridge. The Board discussed its concerns regarding theft of water, and directed Mr. Morin to fine the culprit in addition to charging them for the estimated usage. He agreed to do so. Mr. Morin then reviewed the write-offs, as set forth on **Exhibit “G”**. He pointed out that the write-off in the amount of \$1,114.06 had actually been sent to collections previously, but that apparently the write-off had never been documented with the Board and the auditor was requesting that this be done at this time. The Board discussed the circumstances which had led to this high write-off, and Mr. Morin indicated that the customer had had a huge leak before abruptly moving out of the District. After discussion, Director Campbell moved that the Board approve the write-offs, as requested. Director Richter seconded the motion which was unanimously adopted.

Mr. Morin then presented the transfers attached as **Exhibits “H” and “I”**, and reviewed them with the Board. Upon motion by Director Campbell and second by Director Richter, the Board voted unanimously to approve the transfers. Mr. Morin reported that he had met with Director Henderson to review the invoices, and that Director Henderson had had no questions regarding them. He presented the bills and invoices, as set forth on the check register attached as **Exhibit “J”**. Director Kowis stated that she had noted that the TexaScapes invoices were being paid out of the District’s operating account instead of the park account. Ms. Littlefield stated that she believed that only capital park expenditures should be paid out of the park account, and that routine maintenance should be paid out of the operating account. She agreed to confirm the consent agreement’s requirements. Mr. Morin noted that the District made transfers from its operating account to the park account which were in excess of amounts required for park maintenance. Ms. Littlefield suggested that, in that case, the park account have separate line items in it, so that transfers from the operating account and funds which were being collected through park fees were separately accounted for. Director Kowis stated that she had also noted that a payment was being made from the park account for payment of the wastewater treatment plant expenditures, and that those expenses should be charged against the escrow posted by the Dessau Fountains wastewater treatment plant owner. Mr. Morin agreed to correct this error.

After further discussion, upon motion by Director Campbell and second by Director Zeniecki, the Board voted unanimously to approve the payment of the bills and invoices. Director Zeniecki inquired whether there had been a meter on the fire hydrant which had been used to fill the water truck. Mr. Morin indicated that this was a District meter, and that he had confirmed that it could be removed. He stated that it had been used by Mr. Williams in connection with the fence project, but that Mr. Williams was now through with that project.

Director Richter then advised the Board that Ms. Labastida had received a letter regarding the prohibition against operating a daycare facility in her home. She stated that Ms. Labastida had advised her that she was new to the District, and was not planning to operate a daycare center any longer. She stated that no action was needed. The Board thanked Ms. Labastida for coming to the meeting.

Director Kowis then recognized Deputy Kinnard, for purposes of receiving the security report. Director Kowis noted that Deputy Kinnard had been in the foyer meeting with the residents who had expressed concerns during the citizens' communications portion of the meeting, and thanked him for doing so. Deputy Kinnard stated that he would encourage the installation of a four-way stop at Cambourne at Harris Ridge, and confirmed that the County would not install speed bumps, as they presented a public safety issue due to their effect on emergency vehicles. He also stated that there was not a speed limit sign posted in one location where a sign was needed, and that he would assure that a sign was installed. Deputy Kinnard indicated that he did not believe that the County would agree to reduce the speed limit on Harris Ridge below 35 miles per hour, noting that it was a reasonable speed for the boulevard. Deputy Kinnard also reported that burglaries were down for the month of December and, in fact, December had seen the lowest activity in terms of burglaries of any December in which he had been working within the District.

Director Kowis then recognized Mr. Jones, for purposes of receiving a report from the District's engineer. Mr. Jones reported that plans had been approved for the Wells Branch Parkway water line which was required to serve Settler's Meadow, and that bids has been taken by the County. He indicated that the low bidder was Cash Construction Company, and that the District's alternative bid price in the Cash Construction bid was \$685,951.95. He explained that, although the County intended to award the contract to Cash Construction, the alternative bid price of Rodman Construction Company, which was the second low bidder, was less than the Cash Construction Company alternative. Ms. Littlefield noted that the District could not select among the bidders, but could only elect to have its project included within the County's overall project or not. She also explained that, at her request, Mr. DiQuinzio had negotiated a price reduction of \$77,460.50 with Cash Construction, which would reduce the District's price to \$608,491.45. After discussion, upon motion by Director Richter and second by Director Campbell, the Board voted unanimously to authorize Mr. Jones to notify the County that the District elected to proceed with the project and accept the bid price from Cash Construction Company, with an immediate change order in the amount of \$77,460.50, as described by Ms. Littlefield, and to authorize Mr. Morin to circulate a check for the funding required under the District's Interlocal Agreement with the County.

Mr. Jones then explained that the District would not have sufficient funds escrowed for the Settler's Meadow project to cover the cost of the Settler's Meadow waterline and wastewater line projects, as shown on his analysis attached as **Exhibit "K"**. He stated that he had submitted

an application for release of the funds from escrow, and that this application was pending. Ms. Littlefield stated that it appeared that there were sufficient sums in the District's construction fund to make up the shortfall, and requested authorization to proceed with a surplus funds application for this purpose. After discussion, upon motion by Director Campbell and second by Director Richter, the Board voted unanimously to authorize the District's consultants to proceed with a surplus funds application in order to obtain the remaining funding necessary to complete the waterline and wastewater line projects. The Board also authorized Mr. Morin to prepare a check in the amount of \$100 to cover the filing fee for this application.

Mr. Jones then advised the Board that the Dessau Fountain wastewater improvements were under construction, but that the contractor had determined that the casing pipe which had been installed under a previous contract to allow the wastewater line to be run under the bridge was not lined up with an existing manhole. He stated that the maintenance bond for the project, which had been constructed by Chasco Contractors, was still in effect. The Board agreed that if the contractor had installed the casing pipe incorrectly, it needed to be held responsible. Director Kowis stated that either Mr. Jones or Pate Engineering needed to require the contractor to do what it was supposed to do, both in the case of Chasco Contractors and the case of the current contractor for the Dessau Fountains improvements. After further discussion, Director Richter moved that Mr. Jones be directed to work with John Carlton of Ms. Littlefield's office to negotiate a change order to assure that the project was properly completed, and that the change order be at no cost to the District. Upon second by Director Zeniecki, the motion was unanimously adopted. Director Kowis expressed concern regarding the supervision of construction by Pate Engineering, and stated that Mr. Jones needed to obtain proposals from other engineering firms in the future unless he had design capabilities in-house.

Mr. Jones then reported that a draft of the application for the MS4 permit was included in the Board's meeting packet and that Mr. Heroy of his office was present to answer any questions. He also stated that Mr. Heroy recommended the rule revision attached as **Exhibit "L"**. Director Kowis inquired how much time Mr. Heroy had spent on the application, and Mr. Heroy estimated that it had taken about ten hours. After further discussion, upon motion by Director Zeniecki and second by Director Campbell, the Board voted unanimously to approve the permit application attached as **Exhibit "M"** and the amendment to the District's Rule No. 4 relating to District drainage facilities, as recommended. Director Kowis directed that all consultants review the proposed storm water management plan, noting that they all had a role in enforcing its requirements.

Mr. Jones then presented the proposal for the preparation of the District's 2008 bond application attached as **Exhibit "N"**. Ms. Allen presented the financial information attached as **Exhibit "O"**, noting that the District's projected assessed value was \$415,000,000, and that she was recommending that the bond application be sized at \$6,825,000. She stated that, at this meeting, the Board was only being asked to approve Mr. Jones' proposal, which would allow the application process to begin. She stated that she and Mr. Jones would bring back information showing what projects would be included in the bond application at a future meeting. After discussion, Director Richter moved that the Board approve a proposal, at a cost not to exceed \$45,000. Upon second by Director Zeniecki, the motion was unanimously adopted.

Mr. Jones then presented Pay Estimate No. 2 for the Lakes at Northtown Section 2, a copy of which is attached as **Exhibit "P"**, and recommended approval. Upon motion by

Director Campbell and second by Director Zeniecki, the Board voted unanimously to approve the Pay Estimate.

The Board then discussed the status of the District's audit for the fiscal year ending September 30, 2007. After discussion, the Board agreed to hold a special meeting to review the audit on February 12, subject to Director Henderson's availability.

There being no further business to come before the Board, the meeting was adjourned at 6:50 p.m.

Date: \_\_\_\_\_.

(SEAL)

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Brenda Richter, Secretary  
Board of Directors