

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

February 28, 2012

THE STATE OF TEXAS §
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COUNTY OF TRAVIS §

A meeting of the Board of Directors of Northtown Municipal Utility District was held on February 28, 2012 at the Wells Branch Tech Center, 1421 Wells Branch Parkway, Suite 106, Pflugerville, 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:

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| Robin Campbell | - | President |
| Brenda Richter | - | Vice President |
| Scott M. Gray | - | Treasurer |
| Alex Martinez | - | Secretary |
| Felix T. Amaro, Jr. | - | Assistant Secretary |

and all of the Directors were present, except Director Gray, thus constituting a quorum. Also present at the meeting were Mona Oliver, the District's on-site manager and covenant administrator; Robert Anderson of Crossroads Utility Services, LLC ("*Crossroads*"); Michael DeMotte of Kimley-Horn & Associates, Inc. ("*Kimley-Horn*"); Allen Douthitt of Bott & Douthitt, PLLC; Richard Donoghue of McCall Parkhurst & Horton, PLLC; Richard Fadal of TexaScapes, Inc.; Scott Foster of 360 Professional Services, Inc.; Trent Rush of TBG Partners ("*TBG*"); Lee Hill, Alan Rivaldo, and Kathy Haight, residents of the District; and Sue Brooks Littlefield of Armbrust & Brown, PLLC. Andy VanLeeuwen of Kimley-Horn and Deputy Keith Kinnard of the Travis County Sheriff's Department arrived later.

Director Campbell called the meeting to order at 5:45 p.m. and stated that the Board would first receive resident communications and Board member announcements. Mr. Hill asked that the District's on-site manager send letters out to remind residents about the need for lawn maintenance. Director Richter stated that the Covenant Subcommittee intended to send a notice to remind all residents of this requirement. Mr. Hill then reported that Atmos Energy had experienced a gas supply problem when it was so cold, and that he had contacted them, as a customer and a shareholder. He stated that they had moved a sensor and also provided another link to get gas into the Settler's Meadow neighborhood, which would improve the gas supply. Mr. Hill then stated that he had noticed a lot of governmental entities putting their balance sheets in the newspaper. He stated that he would like information on the District's debt included on the District's website. Ms. Oliver noted that this information was contained in the Information Form which was on the website. Mr. Rivaldo stated that he was also concerned about lawn maintenance. Director Richter confirmed that the Board intended to notify all residents through an enclosure in the water bills. Mr. Rivaldo also stated that he had a question about the fence on Howard Lane. Director Richter stated

that the Board had been unable to complete the entire length of the fence, as one resident had refused to grant an easement unless the District paid her for her existing fence, which the District could not legally do. Ms. Littlefield stated that the Board would discuss the fence later in the meeting.

Director Campbell then stated that the Board would receive Board member announcements. Director Richter encouraged the Board members to visit the CASE Texas website to coordinate their registration for the summer conference. Ms. Oliver inquired if she was approved to attend and the Board confirmed that she was.

Director Campbell stated that the Board would discuss the consent items on the Board's meeting agenda: the minutes of the January 24, 2012 Board meeting; the Amended Order Adopting Minimum Criteria for the Qualification of Bidders attached as **Exhibit "B"**; the Amended Resolution Adopting Rules Relating to Enforcement of Restrictive Covenants attached as **Exhibit "C"**; the Fourth Extension to Interlocal Agreement between Northtown Municipal Utility District and the City of Austin attached as **Exhibit "D"**, and the Landscape License and Indemnity Agreement with Tim and Lucille Hissam attached as **Exhibit "E"**. After discussion, upon motion by Director Richter and second by Director Martinez, the Board voted unanimously to approve the consent items.

Director Campbell then stated that the Board would discuss the District's Unlimited Tax and Revenue Refunding Bonds, Series 2012 and recognized Mr. Donoghue. Mr. Donoghue presented the Order Authorizing the Issuance of Northtown Municipal Utility District Unlimited Tax and Revenue Refunding Bonds; Authorizing the Levy of an Ad Valorem Tax in Support of the Bonds; Entering into a Paying Agent/Registrar Agreement, a Bond Purchase Agreement and an Escrow Agreement; Approving an Official Statement; Establishing the Procedures for Selling and Delivery of the Bonds; and Other Matters Related to the Issuance of Bonds attached as **Exhibit "F"**, and stated that the Order did not authorize the issuance of the bonds, but designated a pricing officer and authorized the pricing officer to go out in the market to refund the District's bonds when it was prudent to do so. Director Richter inquired if this had been done at Board's request and Mr. Donoghue stated that it had not, but that this was simply the initial step in the process, which would allow the District to get into the market to maximize savings as recommended by the District's financial advisor. Director Richter stated that she was not comfortable that this had not been presented in advance to the Board's Finance Subcommittee. The Board agreed that the Finance Subcommittee, consisting of Director Campbell and Director Amaro as Director Gray's alternate, should have been involved in the review of the proposal before it was brought to the Board. Ms. Littlefield stated that she had understood that Ms. Allen intended to contact Director Campbell about the proposal prior to the Board meeting, but added that Ms. Allen had injured her ankle and been unable to attend the meeting. She explained that interest rates on district bonds were currently very low and that many districts were doing refundings, which was similar to refinancing a home, in order to realize savings on the interest on their outstanding bonds. Mr. Donoghue confirmed that the City of Austin's approval would be required as well as the Board's, and explained that the City required that any refunding result in savings of at least 4.5%. Director Richter moved that the Board grant the authority to Director Amaro and Director Campbell to serve as the District's pricing officers and to review any proposal

for refunding the District's bonds. Upon second by Director Martinez, the motion was unanimously adopted. Ms. Littlefield then presented the Resolution Authorizing Application to the City of Austin for Approval of Proposed Unlimited Tax and Revenue Refunding Bonds, Series 2012 attached as **Exhibit "G"**. After discussion, upon motion by Director Richter and second by Director Martinez, the Board voted unanimously to approve the Order, as presented by Mr. Donoghue, and the Resolution, as well as to authorize the payment of any fee to the Attorney General in connection with the refunding. Director Campbell inquired if Mr. Donoghue knew how much of the outstanding bonds was eligible to be refunded and Mr. Donoghue stated that all of the bonds were designated as potentially refundable bonds and that the amount would vary as the market moved.

Director Campbell then stated that the security report would be delayed until Deputy Kinnard's arrival at the meeting.

Director Campbell stated that the Board would next receive the on-site manager's report and recognized Ms. Oliver. Ms. Oliver stated that, as had been mentioned, the lack of lawn maintenance was getting to be fairly overwhelming. She stated that she had prepared a letter that could be sent out with the water bills through AVR at \$0.18 each, so the cost would be about \$540 to the District. The Board then discussed putting the letter on colored paper so it would stand out. Director Richter then moved that the Board approve sending the letter out through AVR and paying any additional cost for putting the letter on colored paper. Upon second by Director Amaro, the motion was unanimously adopted.

Director Campbell then stated that the Board would discuss the MeadowPointe fence. Director Amaro noted that he was not sure what else could be done, as the District was unable to obtain the required easements. Ms. Littlefield stated that one option would be to encapsulate the fence, but that doing this would be subject to obtaining a County license agreement. She reminded the Board that this would be more expensive as it would require the engineer's involvement to prepare plans and process an application for the license. Director Campbell inquired if it would look better if the remainder of the fence was stained and the Board agreed that it would, but, as the District did not own the fence, the District could not stain it, and it would continue to look somewhat out of place.

Director Campbell then stated that the Board would address the covenant violation at 13901 Golden Flax, as there was a potential for referral for litigation. Director Amaro asked if derelict vehicles on the property could be towed and Ms. Oliver indicated that she would discuss this with Deputy Kinnard. Director Richter stated that the Restrictive Covenant Subcommittee recommended proceeding with a lawsuit in connection with the covenant violation. The Board agreed and authorized proceeding with suit, and also confirmed that Ms. Oliver was authorized to sign any verifications required for covenant lawsuits.

Ms. Oliver reported that she had asked Texas Disposal Systems to begin picking up the park dumpster twice a week, which was already included in its contract.

Director Campbell then recognized Mr. Fadal for purposes of receiving the District's landscape maintenance report. Mr. Fadal stated that all of his company's winter work was complete and, with Spring breaking, he was thrilled that the area was getting some rain. He stated that the Lower Colorado River Authority ("LCRA") meteorologist had changed the forecast and was now saying it would rain all summer. He stated that the City was still not sure about permitting more outside watering, but that he did not anticipate that the City would approve watering for new landscape installations. Mr. Fadal then presented Proposal No. 8150 for the Northtown at Cambourne Entry Sign and Landscape Lighting, a copy of which is attached as **Exhibit "H"**. He stated that, at the Parks Subcommittee's request, he had looked at the lighting and found that it was not in a good state of repair. He stated that the proposed work would bring the lighting up to standard of the MeadowPointe entryway lights. After discussion, upon motion by Director Martinez and second by Director Richter, the Board voted unanimously to approve the proposal.

Director Campbell then stated that the Board would consider taking action regarding engineering services and recognized Mr. DeMotte, who first introduced Andy VanLeeuwen, a senior partner with Kimley-Horn. Mr. DeMotte then reported that the MeadowPointe fence contractor had damaged a Crape Myrtle and that he met with Mr. Fadal, who had staked it up in hopes that it would survive. Mr. DeMotte stated that the fence contractor had committed to replacing the tree if it did not. He added that Mr. Robles was satisfied with the fencing work at the park and recommended scheduling a walk-through. Director Richter stated that Mr. Robles had no authority to approve work and that all approvals needed to be coordinated through Ms. Oliver. Mr. DeMotte then presented Pay Estimate No. 1, attached as **Exhibit "I"**, for the MeadowPointe Fence Project. He stated that he had also brought a copy of Change Order No. 1 for the Low Flow Lift Station project, attached as **Exhibit "J"**, which had been approved at the prior Board meeting, for the Board's signature. Director Martinez stated that he was not in favor of approving the Pay Estimate for the fence project until after the final walk-through. Mr. DeMotte stated that the District would still hold retainage. Ms. Oliver stated that the work site needed to be re-graded and seeded. The Board discussed also holding an amount for replacement of the Crape Myrtle. Mr. Douthitt confirmed that there would still be \$10,000 in retainage. After discussion, Director Martinez moved approval of the Pay Estimate, with the Parks Subcommittee being authorized to approve the release of the payment after the walk-through. Upon second by Director Amaro, the motion was unanimously adopted.

Mr. DeMotte then reviewed his directives, noting that he had notified the fence contractor to address the debris and had confirmed they had cleaned up the site. He stated that he had not met with Mr. Douthitt on the surplus funds application as he had been subsequently directed not to do so. He stated that construction was continuing on the low flow lift station, which should be completed in March, but that he did not have any update from the contractor. Mr. DeMotte stated that there had been a delay due to the force main break, noting that the contractor was pulled off of other work to fix the break and it had been a fairly long process. He stated that the work had taken around three days, but that it had now been addressed and most of area had been restored. Mr. DeMotte stated that the contractor had not responded to a series of emails and calls. Mr. Anderson stated that he would follow-up with the contractor, as he had generally found him to be responsive. Director Amaro asked if there was a way to expedite

contractor responsiveness and the Board generally agreed that penalizing contractors as a whole for one contractor's lack of responsiveness would increase the bids received on other District projects. Mr. DeMotte then turned the discussion over to Mr. Foster. Mr. Foster reported that he had attended the Lakes at Northtown Section 5 bid opening. He stated that this project would build-out the northwest section of the District, and that the work needed to be monitored to assure no connection was made to serve any out-of-District area. Mr. Foster then stated that Pflugerville ISD had requested water and wastewater service connections, but that the developer was behind schedule on completing the pond. The Board agreed that a Board subcommittee of Directors Campbell and Martinez should work with Mr. Foster to address this issue. Director Campbell asked if there was anything the Board could do to expedite the school's connections. Mr. Foster stated that, if the Board could give the subcommittee some authority on discretionary items, then, if the City allowed the developer to bond around the completion of the ponds, the connections could be expedited. The Board agreed that the subcommittee would have this authority. Mr. Foster stated that he would come back to the Board with an update at the next meeting.

Mr. Foster then turned the discussion of the well project over to Mr. Rush. Mr. Rush distributed the bid tabulation attached as **Exhibit "K"**, and stated that the District had received bids from four qualified bidders. He explained there was a base bid plus four alternates, three of which were recommended. He stated that the first recommended alternate was the monitoring system, the second was the concrete slab and stone veneer around the cistern, and the third was the installation of orange construction fence, if needed during construction as a safety measure. He stated that alternate four was for a dual-pump station, but that this was a substantial cost and not recommended. He stated that he had reviewed the bids with the Parks Subcommittee, and that he and the Parks Subcommittee recommended approval of the base bid with the three alternates he had presented, but not the pumps. He stated that G Creek was the low bidder, and reviewed its bid with the Board in detail. He confirmed that the bid was complete. Mr. Rush stated that he was comfortable with the bid and proposed construction schedule and recommended approving award of the contract to G Creek. Director Richter stated that the Parks Subcommittee recommended the three alternates as reviewed by Mr. Rush and explained that the first two were aesthetic items and would tie the look of the storage tank to the pavilion. She stated that, with G Creek doing the work, it simplified the electrical tie-in and provided some continuity. Director Richter then moved approval of the award of the contract for the well project to G Creek. Upon second by Director Martinez, the motion was unanimously adopted.

Ms. Oliver then stated that she needed to return to her report, and recommended proceeding with enforcement action in connection with the violation of the commercial covenants requiring landscaping at 1000 E. Howard Lane. The Board authorized proceeding with enforcement action through Ms. Littlefield's office.

Director Campbell stated that the Board would next receive the security report as Deputy Kinnard had arrived at the meeting. Deputy Kinnard reported that the deputies were making good contacts and doing a good job. He stated that they had made several arrests and apprehended the individual who had been shooting the playscape with his BB gun. Upon motion by Director Richter and second by Director Amaro, the Board voted unanimously to approve the payment to Travis County Sheriff's Department

deputies listed on the cash activity report incorporated into the bookkeeper's report attached as **Exhibit "L"**.

Director Campbell then stated that the Board would discuss park development matters and recognized Director Richter. Director Richter stated that most of the park items had been covered by the discussion of the well project and any other park items would be brought to the Board in March.

Director Campbell then recognized Mr. Douthitt for purposes of receiving the bookkeeper's report. Mr. Douthitt presented the cash activity report attached as **Exhibit "L"** and reviewed it with the Board. He also reviewed the proposed transfers summarized on page one of his report. Mr. Douthitt reported that he had received a refund of approximately \$78,000, including interest, from Travis County for the Wells Branch Parkway project. Director Richter questioned the format of TBG bills and stated that there was not a problem with the amount of the invoices, but she would just like more detail. Mr. Douthitt suggested posting the District's audit on the website in response to Mr. Hill's request for additional financial information, noting that it included information on the District's debt issuances. The Board agreed. Director Campbell stated that he had reviewed and recommended approval of the payments and transfers presented by Mr. Douthitt. Upon motion by Director Martinez and second by Director Amaro, the Board voted unanimously to approve the transfers and the payment of the bills and invoices as presented, except for the payments previously approved to the Sheriff's deputies.

Director Campbell then recognized Mr. Anderson for purposes of receiving the general manager and utility operator's report. Mr. Anderson reported that the District currently had 2,789 occupied residences and that all test results had come back satisfactory. He reviewed the 90-day delinquent report and stated that the customer owing the largest amount had paid a substantial amount of it. He presented the list of write-offs attached as **Exhibit "M"** and recommended approval. Upon motion by Director Richter and second by Director Martinez, the Board voted unanimously to approve the write-offs.

Director Campbell stated that the Board would next receive the attorney's report and recognized Ms. Littlefield. Ms. Littlefield confirmed that she had completed her directives.

Mr. VanLeeuwen then addressed the Board and stated that his firm had enjoyed working with the Board, but understood that a change in staff could dictate other changes. He confirmed that, if the District wanted to change engineers, his firm would be happy to waive the 30-day notice period under its contract.

At 7:32 p.m., Director Campbell stated that the Board would convene in executive session in order to receive legal advice and also to conduct a personnel evaluation of Ms. Oliver. At 8:12 p.m. the Board reconvened in open session and Director Campbell confirmed that no action had been taken during executive session. Director Richter then moved that the Board enter into negotiations with 360 Professional Services, Inc. for general engineering services and request the resignation of Kimley-Horn for general engineering services only, with the understanding that Kimley-Horn would continue

work under its existing proposals with the potential for assigning or subcontracting of some of the proposals to 360 Professional Services, Inc. Director Richter further moved that the Board appoint a subcommittee consisting of Director Martinez and Director Campbell to negotiate the on-going relationship with both engineering firms. Upon second by Director Martinez, the motion was unanimously adopted.

Director Martinez then moved that the Board commend Ms. Oliver's performance as the District's onsite manager and appoint Director Richter and Director Amaro to a subcommittee to complete due diligence with regard to an appropriate salary increase for Ms. Oliver and come back to the Board at its next meeting with a recommendation for a salary adjustment to be effective as of March 1. Upon second by Director Richter, the motion was unanimously adopted.

Director Campbell stated that the Board appreciated Ms. Oliver's willingness to handle all tasks assigned to her without exceeding legal boundaries. Ms. Oliver thanked the Board for giving her the opportunity to work with the District.

The Board then directed Ms. Littlefield to place an item on next meeting agenda to consider the cost of obtaining a license agreement and extending the MeadowPointe fence. The Board also directed that an item be placed on the Board's next meeting agenda to consider policies on the use of the District's facilities for non-Board meetings and an item to approve a compensation adjustment for Ms. Oliver.

There being no further business to come before the Board, the meeting was adjourned.

Date: _____.

(SEAL)

Alex Martinez, Secretary
Board of Directors