

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

March 25, 2008

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 March 25, 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 Kowis and Director Zeniecki, thus constituting a quorum. Also present at the meeting were Mike Morin of SWWC Services, Inc.; Sam Jones of Sam Jones Consulting; David Armistead of the Wildflower Homeowners' Association; Don Williams of Wells Branch Municipal Utility District; Tim Hissam, a resident of the District; Deputy Keith Kinnard of the Travis County Sheriff's Department; Richard Fadal of TexaScapes, Inc. and Sue Brooks Littlefield of Armbrust & Brown, L.L.P. District resident Tracie Valentine arrived later.

Director Campbell 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 February 12, 2008 and February 26, 2008 Board meetings. Upon motion by Director Richter and second by Director Henderson, the Board voted unanimously to approve the minutes.

Director Campbell then asked whether there were any citizens present wishing to address the Board. Mr. Hissam stated that he had a request and two questions. He reminded the Board that he lived next to the wet pond on Ceylon Tea Circle, and stated that he was requesting the bulrushes be cut down in late May or early June instead of January. He stated that this would minimize the impact on nature and wildlife in the area. Director Campbell noted that the Board deferred to its landscape maintenance contractor, Mr. Fadal, but would encourage Mr. Fadal to study the information which Mr. Hissam had provided via email to determine when the optimum time would be to cut the bulrushes, both for the residents and for the wildlife. Mr. Hissam thanked the Board.

Mr. Hissam then asked that the Board terminate the license agreement he had entered into with the District several years previously, which had allowed him to plant three trees next to the wet pond. He confirmed that the trees were now established and that irrigation was being

provided through the District's sprinklers in the area. Ms. Littlefield reminded the Board that the license agreement had a 30-day termination clause, which authorized either party to terminate by giving notice to the other party. After discussion, upon motion by Director Richter and second by Director Henderson, the Board voted unanimously to approve the termination of the license agreement as requested.

Mr. Hissam then inquired regarding the wet pond rules, noting that he had noticed some changes in the rules as posted on the District's website. He stated that the rules had formerly prohibited releasing wildfowl in the pond area, and expressed concern regarding the impact of West Nile virus on domesticated species. After discussion, the Board requested that Ms. Littlefield review the District's files to determine what rules were applicable to the wet pond, and bring them back to the Board for review, in order to determine if any changes were necessary. Director Campbell thanked Mr. Hissam for the work that he had done to improve the neighborhood, and Mr. Hissam left the meeting.

There being no other residents present wishing to address the Board at this time, Director Campbell stated that the Board would receive announcements by Board members. He noted that neither he nor Director Richter would be able to attend the regularly scheduled April board meeting. After discussion, the Board agreed to reschedule its regular April meeting to April 29, 2008 at 5:45 p.m. Ms. Littlefield advised the Board that Director Kowis had advised her that she intended to resign immediately from the Board, and would not be attending future meetings. Ms. Littlefield encouraged the Board to move quickly to appoint a replacement for Director Zeniecki as well as Director Kowis. The Board agreed that it would do so.

Director Campbell then stated that the Board would consider taking action regarding the Dessau Wastewater Treatment Plant, including the status of improvements under the Tri-Party Agreement, the wastewater spill and related matters. Ms. Littlefield advised the Board that John Carlton of her office had been in contact with the Texas Commission on Environmental Quality regarding the status of having the plant decommissioned and the timing for completion of the necessary cleanup work, which were necessary for the District to begin its work in the creek. The Board reviewed the memorandum from Mr. Carlton attached as **Exhibit "B"**, and Ms. Littlefield also advised the Board that Mr. Carlton had spoken the previous day with Mike Daniels of the Commission, who had advised him that he had visited the creek the previous week and that the cleanup work was going very well. He stated that the Commission would be taking samples both upstream and downstream of the treatment plant, to determine if the contamination had been remediated and, once this was confirmed, Mr. Daniels would advise Mr. Carlton when it was appropriate to begin the District's work in the creek area. Mr. Morin indicated that he anticipated receiving a call from Sharon Collier regarding the status of this work, and Ms. Littlefield suggested that Mr. Morin refer Ms. Collier to Mr. Carlton for an update. The Board concurred. Ms. Littlefield also advised the Board that, with respect to the improvements which needed to be constructed, Mr. Carlton believed that he and Mr. Jones had developed a good alternative that would minimize the cost. She stated that the City of Austin had agreed to assist the District by using its own crews to do a pump-around of wastewater for one portion of the project, which would save about \$30,000 in costs. She noted that Bart Jennings and the Director of the Austin Water and Wastewater Utility were working with the District to provide this assistance. She stated that Mr. Carlton continued to work with the contractor to negotiate a

reasonable change order, and that he had notified the wastewater treatment plant owner that it would be responsible for the additional cost of the change order.

Director Campbell then stated that the Board would consider taking action regarding an amendment to the District's Order Establishing Service Rates, Charges, Tap Fees and Adopting Rules and Policies with Respect to the District's Water, Wastewater and Drainage Systems. Ms. Littlefield presented the amended Order attached as **Exhibit "C"**, and reviewed it with the Board, noting that it included changes which had been recommended by the auditor as well as an increase in the wastewater service fee to pass-through costs in the District's wholesale rates. Mr. Morin confirmed this, noting that the increase was based on the District's increase from the City of Pflugerville. After discussion, upon motion by Director Richter and second by Director Henderson, the Board voted unanimously to approve the amended Order.

Director Campbell then stated that the Board would receive a report under the Interlocal Agreement with Wells Branch Municipal Utility District. Mr. Williams addressed the Board, noting that he had received a directive to report any graffiti which he observed to Deputy Kinnard. He stated that there had been one recent graffiti incident, and that he had advised Deputy Kinnard of the problem. He stated that he would clean the graffiti up once Deputy Kinnard had had an opportunity to make any necessary report. Mr. Williams also confirmed that the lights had been installed at the bridge, as previously discussed. Mr. Williams indicated that, with the coming of Spring, there were increased restrictive covenant violations due to the need for a Spring cleanup in many areas. He stated that, as a result, the list of courtesy notices was fairly large. Ms. Littlefield advised the Board that the resident at 13810 Greinert Drive, who had previously been cited for a trash can kept in public view, had relocated the trash can behind the air conditioning unit of the residence. She stated that, while it was less visible, it had not been placed in the backyard or garage, as requested. After discussion, the Board agreed that it would view the relocation of the trash can as an attempt to comply, and would continue to monitor the situation. Mr. Williams also advised the Board that the interlocal agreement for the park grant was ready to be submitted to the Lower Colorado River Authority, pending the Board's approval of an updated budget.

Director Campbell then recognized Mr. Armistead, for the purpose of receiving a report from the Wildflower Homeowner's Association regarding restrictive covenant matters. Mr. Armistead indicated that it had been a routine month, and that the Association was mowing the alleyways and working on yard maintenance issues. He stated that several more homes were being repainted and that a couple of additional garages were going up. He requested that the Board consider approving the overseeding of the Wildflower detention pond area, noting that he felt that nice green grass in the area would improve its appearance dramatically. Mr. Fadal explained that, because the detention pond bottom was not irrigated, he would not be able to get winter grass established, because winter grass required a larger amount of water to germinate and grow. He suggested referring Mr. Armistead's request to the Park Committee, which could investigate alternatives. Mr. Armistead thanked the Board for its consideration.

Director Campbell noted that he had observed another resident who had arrived at the meeting, and recognized Ms. Valentine. Ms. Valentine addressed the Board, and stated that her water had been cut off earlier in the day, even though the District's management company had received her payment. She stated that this was the third time she had been required to pay an

additional \$100 deposit, and complained that her bill was only about \$50 a month and that her deposit was much more. She stated that she wanted to know why the District was requiring an additional deposit, which was not related to the amount of her bill. Director Campbell explained that an additional security deposit was required in order to assure the District that a customer would not leave the District while owing the District money. He stated that the District's experience was that, when a customer was repeatedly late with payments, and had his or her water cut-off, this frequently occurred. He noted that the District had write-offs every month, and that some were in extremely large amounts. Ms. Valentine stated that she did not see how a bill of such a magnitude could occur, because the management company had cut her water off for one month's late payment. Director Campbell explained that this policy had been established in order to reduce the District's losses due to bad debt. Ms. Littlefield added that the Board had determined that it was appropriate to charge an additional security deposit to reduce the risk of loss due to bad debt, noting that any loss due to a customer leaving a bill unpaid had to be passed on to all of the customers of the District. She inquired what amount of security deposit Ms. Valentine currently had on deposit, and Mr. Morin confirmed that, as of today, Ms. Valentine had a \$300 security deposit. Mr. Morin then explained to Ms. Valentine that the bill she had paid earlier in the day was for usage through February 4th and so, as of today's date, she had almost two additional months' of usage which had not yet been billed. He explained that this was the reason that some customers could run up a fairly large bill before service was terminated. Ms. Valentine then inquired who had made this rule, and Director Campbell responded that the Board of Directors had established it. Ms. Valentine inquired who had elected the Board, and Director Campbell explained that the District had elections periodically, and that, with regard to the most recent election, no one had applied to be elected to the Board, and so the current Board members had been elected by default. Ms. Valentine inquired when the next election would be held, and Ms. Littlefield responded that elections were held in even-numbered years, and that the next election would be held in 2010.

Director Campbell then recognized Deputy Kinnard, for purposes of receiving the security report. Deputy Kinnard stated that the previous month had not been bad with regard to incidents, and explained that the deputies were working on Saturdays in an attempt to identify the vandals who were operating within the District and were "tagging" District facilities with graffiti. He commended the Board and Mr. Fadal on the appearance of the park, noting that the clearing had made the area much more visible. He presented the Agreement with Regard to Use of Vehicle(s) in Connection with Off Duty Employment of County Peace Officer(s) and Vendor Request for Secondary Employment of Law Enforcement with the Travis County Sheriff's Office attached as Exhibits "D" and "E", and requested the Board's approval. Ms. Littlefield noted that the second document was basically the same form which had been approved the previous year, and that, although she did not feel it was appropriate for an Interlocal Agreement, Deputy Kinnard had assured her that this was the least expensive way available of obtaining the deputies' services for patrols within the District. She noted that the vehicle agreement was a new agreement which had been implemented by the County. After discussion, upon motion by Director Richter and second by Director Henderson, the Board voted unanimously to approve both agreements.

Director Campbell then recognized Director Richter for the purpose of receiving a Park Subcommittee report. Director Richter explained that the Park Subcommittee meeting was scheduled for Thursday, and encouraged the Board to tour the park to look at the clearing work

which had been done by Mr. Fadal's crews, noting that the park area now looked incredible. She recommended that the Board approve a revised budget for the grant, and reviewed the Interlocal Agreement and updated budget attached as **Exhibit "F"** with the Board. She stated that the Park Subcommittee might also need to update the park master plan, to reflect the changes that had been incorporated into the budget. She requested that the Board authorize the Park Subcommittee to do this, if required. After discussion, upon motion by Director Richter and second by Director Henderson, the Board voted unanimously to approve the Interlocal Agreement, with the updated budget, and to authorize the Park Subcommittee to have the park master plan updated if it deemed it necessary to do so. Mr. Morin stated that he had provided the District's account information to the Lower Colorado River Authority, in order to allow the park grant funds to be direct deposited to the District's account. Director Richter confirmed that Mr. Morin had had the lift station light installed, and that Mr. Williams had arranged for the installation of lights under the bridge, which were now on a timer.

Director Campbell 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 "G"**, with the Board, and advised the Board that he had completed all of the winter tasks and was ready for this Spring's activities. He stated that his crews had just concluded Phase 8 of the clearing work, and were on standby for the Merseyside greenbelt work, once the Texas Commission on Environmental Quality authorized them to proceed. He stated that he understood that Mr. Carlton would notify him when the Commission's approval was obtained. He then presented two proposals, attached as **Exhibits "H"** and **"I"**, and explained that the first proposal was to add the District's 50 acre park to its ongoing maintenance program, and that the second proposal was for poison ivy control, which was a yearly program similar to that which had been implemented in the Wildflower Park. Director Richter explained that the maintenance proposal was necessary in order to keep the 50 acre park in a maintained condition so that it did not again become overgrown, and necessitate the large-scale clearing work which had just been completed. After discussion, Director Richter moved that the Board approve the two proposals as presented by Mr. Fadal. Upon second by Director Henderson, the motion was unanimously adopted. Director Campbell pointed out that the first proposal was an amendment to the existing landscape maintenance contract. Mr. Fadal noted that there had been several proposals approved which were similar in effect, and suggested waiting until all of the proposals which would affect the scope of work under the maintenance contract were finalized before doing an overall contract revision. Ms. Littlefield inquired whether the maintenance map needed to be updated, noting that this was referred to very frequently. After discussion, the Board requested Mr. Jones bring a proposal to the Board for updating the landscape maintenance map.

Director Campbell then recognized Mr. Morin, for purposes of receiving a report from the District's general manager. Mr. Morin advised the Board that the District had experienced a 1.4% water gain the previous month, and stated that he felt that this related to the metering problem which he had previously discussed with the Board. He stated that he had received an inquiry from the City regarding whether one master meter which was currently in place was actually needed, and that he had referred this question to Mr. Jones. He reviewed a summary of information regarding charges relating to a fire hydrant meter account established by Joe Bland Construction. Ms. Littlefield pointed out that the initial penalty had been left in place for all three scenarios which Mr. Morin had prepared, a copy of which is attached as **Exhibit "J"**. After discussion, Director Richter moved that the Board authorize the adjustment of the invoice

to Joe Bland Construction to the lowest tier rate, and waive the penalty amount so long as the invoice was paid within 30 days. Director Henderson seconded the motion, which was unanimously adopted. Mr. Morin stated that he did not anticipate a problem collecting the bill and felt Joe Bland Construction would appreciate the Board's consideration.

The Board then discussed bookkeeping services, and Director Campbell summarized the work which he had done, in conjunction with Mr. Morin, to determine which services should be left in the management contract and which should be transferred to a new bookkeeper. After discussion, the Board authorized Director Campbell and Ms. Littlefield to work together to finalize a request for proposal, and to send it out, with the intention of approving a new bookkeeping services agreement as well as an amended contract with SWWC Services at the next Board meeting.

Mr. Morin then presented the write-off list attached as **Exhibit "K"**, and reviewed it with the Board. He stated that the highest write-off, in the amount of \$186.39, had been paid, and could be removed from the list. Director Campbell pointed out that there were two management companies on the list, and that, as previously discussed, he was not in favor of writing-off amounts payable by a management company, since ordinarily they had more than one account active within the District. He pointed out that, in addition, Gainer Property Management was also on the refund list, and that he would not be in favor of issuing any refund to a company which owed the District money. Mr. Morin stated that he had not noticed this, as the company name had been entered slightly differently. After discussion, Director Richter moved that the Board approve the write-offs, with the exception of Accounts 173945, 174108 and 175037. Upon second by Director Henderson, the motion was unanimously adopted. Mr. Morin reported that there had been 148 disconnects today and Director Richter commented that this was the highest number for quite some time. Mr. Morin concurred, noting that the number had been creeping up lately. He pointed out that credit card charges to pay accounts were up as well. Mr. Morin then reviewed the bills and invoices received by the District, as set forth on the check register attached as **Exhibit "L"**, and also requested the approval of Check No. 8362 to the City of Austin in the amount of \$108,571.80. Director Campbell requested that Check No. 8348 be pulled until the write-off issue which had previously been mentioned be resolved, and the Board agreed. After further discussion, upon motion by Director Henderson and second by Director Richter, the Board voted unanimously to approve the payment of the bills and invoices as presented, with the additional check noted by Mr. Morin and with the payment to Gainer Property Management being pulled as recommended by Director Campbell.

Mr. Morin then presented the transfer letters attached as **Exhibits "M"** and **"N"** and requested approval. Upon motion by Director Richter and second by Director Henderson, the Board voted unanimously to approve the transfer letters. Mr. Morin reminded the Board that the CASE summer conference was coming up soon, and noted that only Director Henderson was currently planning to attend. He asked that the other Board members notify him if their plans changed. Director Campbell then noted that there was an item on the agenda to consider taking action regarding the manager's account. He explained that he had not included a manager's account in the scope of services for the proposed new management contract. After discussion, the Board agreed to defer action on the manager's account until the next month's meeting. Mr. Morin also advised the Board that, after consultation with Ms. Littlefield, his company had

begun depositing cash amounts received for the payment of bills into the District's account daily. Ms. Littlefield thanked Mr. Morin for addressing this concern.

Director Campbell then stated that the Board would receive a report from the District's attorney and recognized Ms. Littlefield. Ms. Littlefield reviewed her directives from the previous Board meeting, and also advised the Board that she had received a revised version of the Interlocal Agreement for Solid Waste Services to KB Home out-of-district service area, a copy of which is attached as **Exhibit "O"**. She noted that the originally proposed contract had been revised extensively by the City, but that the City had not notified her of its changes. She stated that she felt most of the changes were not an improvement over the previous draft and was concerned that the revisions would require the District to renew the Interlocal Agreement annually, but recommended that the Board approve the agreement so that the District could begin providing solid waste services as originally contemplated. After discussion, upon motion by Director Richter and second by Director Henderson, the Board voted unanimously to approve the revised draft of the Interlocal Agreement.

Director Campbell then stated that the Board would receive a report from the District's engineer and recognized Mr. Jones. Mr. Jones referred the matter relating to the status of the easement and restrictive covenants for the Lakes Boulevard (Lake at Tech Ridge) to Ms. Littlefield. Ms. Littlefield stated that an attorney in her office had been working with the developer to finalize the necessary covenant documents, which would assure the District that the ponds in the Lake at Tech Ridge would be maintained by the property owners and not the District. She stated that she believed that the agreements were basically final, but that her office had found out that the individual with whom they had been working was no longer with the development company and that the matter would now be handled by Jeremy Smitheal. The Board agreed to defer action on this item until the next Board meeting.

Mr. Jones reported that he had not been able to get a status report from the Texas Commission on Environmental Quality on the District's application for the release of escrowed funds and the release of surplus funds. He stated that he expected action soon, as these applications had been pending for several months. He presented Pay Estimates No. 4 and 5 for the Lakes at Northtown, Section 2, copies of which are attached as **Exhibits "P"** and **"Q"**, and recommended approval of the Pay Estimates and acceptance of the project. He noted that this development contained no ponds. After discussion, upon motion by Director Henderson and second by Director Richter, the Board voted unanimously to approve the Pay Estimates and accept the project for operation and maintenance.

Mr. Jones then reported that there had been no action on the lift station improvements required in order to connect the Dessau Fountain Estates property to the District's facilities. He stated that, as Ms. Littlefield had previously reported, his office was still working with the City of Austin and the contractor on the necessary change order to complete the District's improvements. Mr. Jones also reported that he was waiting on information from DR Horton in order to complete the draft of Bond Application No. 8.

Director Campbell then stated that the Board would consider taking action regarding water and wastewater service to Settler's Meadow. Ms. Littlefield advised the Board that she

had met with the attorneys for the Village @ Northtown, who had advised her that the construction project for the Wells Branch Parkway Improvements had been delayed due to financing problems experienced by the developer. She stated that these problems were not unique to this developer, noting that there was a general concern in the lending community regarding land development loans at this time, and that she was aware of several committed loans which had not closed. She stated that the attorneys had explained to her that the developer was working on obtaining a loan which was necessary in order to obtain the fiscal security which it needed to post with the County in order for the Wells Branch Parkway Improvements to proceed. She added that the attorneys also had indicated that they wished to obtain a consent to the pledge of reimbursement rights to a lender, and that the lender had raised a concern regarding the structure under which the reimbursements would arise, due to the fact that some of the improvements which would ultimately be conveyed to the District were being constructed under an agreement between the developer, the County and other third parties, and which the District was not a party to. Ms. Littlefield noted that, even if the project was not bid, the District would still be able to purchase facilities based on an appraisal, in accordance with the Texas Commission on Environmental Quality's rules, and that any reimbursement would be subject to Commission approval. Ms. Littlefield inquired whether the Board wished her to obtain a refund of the District's payment to the County, since the construction timetable was uncertain. The Board agreed that, so long as interest was being paid on the account as required by the contract, it was not concerned regarding the delay. Ms. Littlefield agreed to contact the County to determine what interest was being paid on the District's funds. After further discussion, upon motion by Director Richter and second by Director Henderson, the Board voted unanimously to authorize Ms. Littlefield and Director Campbell to negotiate and finalize a consent to the assignment to the reimbursement rights with the Village @ Northtown, Ltd.

Director Campbell then stated that the Board would consider taking action regarding a request for the release and vacation of a drainage easement by Capital City-Howard Lane, Ltd. Ms. Littlefield stated that the District had received a request from a neighboring landowner for the release of two drainage easements, but that, upon review, her office had determined that only one of these easements had actually been granted to the District. She stated that Mr. Heroy of Mr. Jones' office had confirmed that the District had no facilities in the easement, but explained that, even if the District only had water flow coming from its boundaries onto the land, the drainage easement would be required. She requested that Mr. Jones confirm that the District had no need at all for the easement, and that the area was not affected by drainage from the District, and Mr. Jones agreed to do so. After further discussion, Director Richter moved that the Board approve the release and vacation of the drainage easement, subject to Mr. Jones confirmation that it was not needed for any overland flows. Upon second by Director Henderson, the motion was unanimously adopted.

Director Campbell then stated that, there being no reports from developers and landowners' representatives, the Board would consider the items on the Board's supplemental meeting agenda. After discussion, Director Richter moved that the Board approve the Order Declaring Election of Unopposed Candidates and Canceling May 10, 2008 Director Election attached as **Exhibit "R"**. Upon second by Director Henderson, the motion was unanimously adopted.

There being no further business to come before the Board, Director Richter moved that the Board meeting be adjourned. Upon second by Director Henderson, the motion was unanimously adopted.

Date: _____.

(SEAL)

Brenda Richter, Secretary
Board of Directors