

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

May 25, 2010

THE STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS           §

A meeting of the Board of Directors of Northtown Municipal Utility District was held on May 25, 2010, at the Wells Branch Indoor Recreation and Conference Center, 3000 Shoreline 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:

Robin Campbell	-	President
Brenda Richter	-	Vice President
William E. Henderson	-	Treasurer
Scott M. Gray	-	Secretary

and all of the Directors were present, thus constituting a quorum. Also present at the meeting were Mona Oliver and Ernest Robles of Wells Branch Municipal Utility District; Robert Anderson of SWWC Services, Inc. ("SWWC"); Allen Douthitt of Bott & Douthitt, P.L.L.C.; Scott Foster and Michael DeMotte of Kimley-Horn & Associates, Inc.; Trent Rush of TBG Partners; Deputy Keith Kinnard of the Travis County Sheriff's Department; Jay Howard of Texas Disposal Services, Inc.; Crystal Kaylakie of Southwest Securities; Alex Martinez, Lee Hill, Mr. Rivaldo, Lupe Serna and Mr. Addison, residents of the District and Sue Brooks Littlefield of Armbrust & Brown, L.L.P.

Director Campbell called the meeting to order at 5:45 p.m. and stated that the Board would first consider the director and election related items on the Board's meeting agenda. He noted that, as there had been no contested positions in the election, Directors Richter and Gray had been declared elected. Directors Richter and Gray then read their Statements of Elected Officer and Oaths of Office aloud. Upon motion by Director Henderson and second by Director Campbell, the Board voted unanimously to approve the Sworn Statements and Oaths of Office for Directors Richter and Gray. Director Campbell then explained that, as the result of a misunderstanding regarding election filing requirements, Director Martinez would need to be reappointed to the Board. Director Richter then moved to appoint Alex Martinez to the Board to fill the vacancy which had resulted due to the filing problem. Director Henderson seconded the motion, which was unanimously adopted. Director Martinez then read his Statement of Appointed Officer and Oath of Office aloud. Upon motion by Director Richter and second by Director Henderson, the Board voted unanimously to accept the Sworn Statement and Oath of Office and Official Bond for Director Martinez. Director Richter then moved to elect Director Campbell as President, herself as Vice-President, Director Henderson as Treasurer, Director Martinez as Secretary, and Director Gray as Assistant Secretary. Director Gray seconded the motion and clarified that the change in the offices of Secretary and Assistant Secretary should be effective on the next meeting date, so that the documents prepared for execution at the meeting

would not need to be altered. Director Richter amended her motion accordingly. Upon being put to a vote, the motion was unanimously adopted.

Director Campbell then stated that the Board would consider approving the consent items on the Board's meeting agenda: a revised District Registration Form; the minutes of the April 27, 2010 Board meeting and the Resolution Authorizing Change in Land-Use Plan for Northtown Municipal Utility District Contingent Upon Consent of the City of Austin attached as **Exhibit "B"**. Upon motion by Director Richter and second by Director Gray, the Board voted unanimously to approve the consent items.

Director Campbell then stated that the Board would receive citizens' communications and Board member announcements. Mr. Hill thanked the Board for planting vines on the fence in Settler's Meadow. He stated that they were being watered regularly and looked nice, although the heat was affecting them somewhat. He then asked the Board for notice if the meeting place changed, pointing out that he had had difficulty finding the meeting. The Board explained that the agenda was posted both in the District and on the website. Ms. Littlefield agreed to add Mr. Hill to the agenda distribution list. Mr. Hill also thanked Mr. Anderson for explaining the cause of the drop in water pressure which had been experienced. Mr. Anderson stated that he would have more information on this issue later in the meeting.

Director Richter then announced that she had been elected to be a member of the CASE board of directors, which she felt would be good for the District. She encouraged the Board to attend the CASE summer conference on June 10-12. Director Campbell agreed that the Board was fortunate to have this direct representation on the CASE board.

Director Campbell stated that the Board would next receive the security report and recognized Deputy Kinnard. Deputy Kinnard advised the Board that the ARES monitoring system was now operational, and explained some of the advantages of the system. He noted that, on April 28<sup>th</sup>, the deputies had discovered two four-wheelers in the parks. He added that they had pursued and then ticketed the owners. He also stated that the deputies were identifying gang members in the parks and, because of the area's designation as a high crime area, the deputies were deemed to have probable cause to stop and frisk. He also stated that he had heard the noise from a residence on Greinert which the neighbor had complained about, and that he had warned the residents that, if there was another incident, they would be ticketed. Deputy Kinnard encouraged the Board to keep the facilities that the residents enjoyed using in the parks, even if this required replacement of things like the volleyball court nets, as activity in these areas discouraged the vandals and other less desirable people from congregating in the parks. Deputy Kinnard then reported that an individual wearing a ski mask had approached Mr. Robles while he was working in the park. He stated that Mr. Robles had not reported the incident immediately and explained that it was important that law enforcement was contacted in the event of an incident of this type. Ms. Oliver suggested that the staff and Parks Subcommittee meet with Deputy Kinnard to develop a Standard Operating Procedure for this type of incident. The Board agreed. Deputy Kinnard then proposed that the Board consider increased patrols in the month of June, to increase the visibility of law enforcement. Director Richter moved that the Board authorize an increase in patrol hours to 120 hours for the month of June. Director Martinez seconded the motion, which was unanimously adopted. The Board directed that Deputy Kinnard coordinate with Mr. Robles, so that there were patrols while the maintenance staff was in the park. He agreed to do so. Mr. Robles thanked the Board for increasing patrols to assure his and

his staff's safety. Director Richter then moved approval of the payment to the Travis County Sheriff's Department set forth on the cash activity report attached as **Exhibit "C"**. Upon second by Director Gray, the motion was unanimously adopted.

Director Campbell then recognized Mr. Howard for purposes of receiving the quarterly report from the District's solid waste contractor. Mr. Howard reviewed the solid waste contractor complaint log for the prior quarter with the Board. Director Campbell explained that some residents had inquired about implementing an alternative recycling system and stated that the Board would like to review the alternatives to the recycling program that was currently in place with Mr. Howard. Mr. Howard distributed the brochure attached as **Exhibit "D"** and explained that, currently, the District had a dual-stream system. He noted that the newer approach, which was used in the City of Austin, was referred to as a single-stream system, and that this allowed all recyclable materials to be placed in a single container. He stated that the only existing single-stream recycling center was in the City of San Antonio. Mr. Howard added that his company currently had one single-stream contract for San Marcos and that the biggest advantage was allowing the recycling of plastic categories 3-7 and cardboard. He added that the system had been very successful in San Marcos, and had increased participation by 40%. Mr. Howard stated that the additional cost was about \$1.97 per household per month. He added that his company was currently constructing a single-stream recycling center at its facility. The Board discussed concerns regarding both the cost of the program and the problems raised by an additional container, noting that there were already covenant issues due to residents not putting their trash containers away and that this would add another container of the same size. Director Campbell asked about the possibility of providing a centralized disposal site for cardboard, which seemed to be the biggest recycling issue. Mr. Howard stated that this would be an option. He added that, if a single-stream system was implemented, recycling would then be collected every other week, while trash pickup would still be weekly. Director Richter stated that she felt this would be confusing. Director Gray inquired if the cost of the single-stream program would go down once Texas Disposal System's single-stream plant was on-line. Mr. Howard responded that it was anticipated that it would go down about 50 cents. Director Campbell proposed that the Solid Waste Subcommittee, consisting of Directors Martinez and Gray, meet with Mr. Howard to review the options and they agreed to do so. Director Richter stated that she felt it was important to find out what the residents actually wanted. The Board concurred. Mr. Anderson advised the Board that the Clean Up Day had gone extremely well this year.

Director Campbell then inquired whether there were any other residents who wished to address the Board under citizen's communications. Ms. Serna stated that she would like to receive a status report on the fence. Mr. Addison stated that he was present because the Wildflower residents were at a crossroads with the Homeowner's Association Board of Directors and wanted clarification of the roles of the District and the Association. He noted that the Board had addressed many of the problems in the neighborhood, such as the covenant enforcement, but that, in the last six months, there had been no accountability from the board on how the Association's money was being spent. He stated that the residents were paying a high amount of money in dues, but there was no management company in place and they didn't know where the money was being spent. He stated that, as a result, the existing board had been petitioned for a new election. He stated that the residents would like to know whether the District could take over the Association's role if the residents dissolved the Association. Ms. Littlefield explained that the District could not take over all of the functions of the Association. She noted that the Association was a private association, with powers that arose under the covenants applicable to

Wildflower, but the District was a governmental entity, with powers that were limited to those granted by State law. She stated that the District was legally able to enforce restrictive covenants, but could not serve as an architectural control committee and could not maintain the private alleys in Wildflower, which were owned by the homeowners. After discussion, Ms. Littlefield agreed to contact the attorney for the Association to attempt to determine why the board was apparently not responding to the residents' inquiries.

Director Campbell then stated that the Board would receive a report under the Interlocal Agreement with Wells Branch Municipal Utility District. Ms. Oliver advised the Board that the replacement volleyball net had been ordered. She called the Board's attention to Mr. Kennis' report included in the meeting packet. Director Richter reported that certain ponds which had been constructed in connection with the Heatherwilde Boulevard/Wells Branch Parkway extension were not being maintained and that, although County maintenance had been the plan, she was concerned about the County's lack of maintenance of the structures, particularly due to vandalism issues. Ms. Littlefield suggested working through Steve Manilla's office and Mr. Foster agreed to contact Mr. Manilla regarding the problems. Ms. Oliver then introduced Ernest Robles to the Board and residents, noting that he was the supervisor for the District's park maintenance work. Ms. Oliver reported that the covenant violation at 13809 Spring Heath had been taken to court, and the District had been awarded two fines of \$500 each and the resident was given about another week to resolve the violations. Ms. Oliver then reported that there were several additional violations which she recommended pursuing through lawsuits. She stated that these violations were located at 113 Segovia, 13908 Golden Flax and 228 Wild Senna. After discussion, the Board agreed that its new policy was to send the translated cover letter that had been prepared by Ms. Littlefield with all final notice letters, and requested that this be done with these addresses. The Board also requested that a notation showing that the letter, in Spanish and English, had been sent needed to be noted on the covenant report. The Board directed that these actions be taken and that Ms. Oliver bring the violations back to the Board once the letter was sent, if no response was received.

Director Richter stated that Mr. Fadal would not be present and reviewed his report with the Board.

Director Campbell then stated that the Board would receive a report from the District's engineer. Mr. Foster reviewed his report, a copy of which is attached as **Exhibit "E"**. He explained that he had consulted with the County on the Wells Branch Pedestrian Crossing and added that the developer was working with the School District on a possible school site that could affect the crossing issue. He stated that he would meet with County again after the school site was determined. Mr. Foster stated that the Lakes at Northtown was working to resolve the pond maintenance items he had required be addressed prior to acceptance of the ponds. He also stated that the County had finally received the as-built plans for Heatherwilde/Wells Branch Parkway and so the information the City had been asking for should be provided soon. He stated that he expected to recommend action on the park wells and pond maintenance plan in June. Mr. Foster also reported that he expected notice to proceed to be issued to the fence contractor the next day, once the permit was received from the County, and that the fence should be completed by the end of June. Director Richter requested that Ms. Serna be notified of the status and Ms. Littlefield agreed to do so. Director Campbell asked if the fence would incorporate a cut to allow for a monument sign. Mr. Foster responded that he had modified the plans to address this. He then explained the modifications which had been made to the disc golf course layout, noting

that it was now in compliance with ADA requirements. Director Richter stated that the disc golf design was excellent and she felt the course would be a big amenity for the community.

Mr. Foster then explained that, the City had proposed a pumpover to the McCallen Pass interceptor as an alternative to replacing the Dessau Road force main, but there were some significant challenges in this approach due to a constraint on the amount of wastewater that could be accepted into the line. He stated that this was a concern in pursuing this option, and made doing so a risk since future capacity required for build-out was not assured. Mr DeMotte then distributed the memo attached as **Exhibit "F"** and reviewed it with the Board. He reminded the Board of the three options which had been reviewed at the prior Board meeting and explained the variables that he and Mr. Foster had investigated since the last meeting to determine the capacity available from the City and the condition of the 14-inch line. Mr. DeMotte confirmed that the City proposal was to allow up to 1200 gpm of flow into the McCallen Pass interceptor, noting that this was only 200 gpm more than the flow required to serve existing customers. Director Martinez asked if the District could pursue an adjustment to the design limit of 80% as previously discussed, in order to allow additional capacity to be made available. Mr. DeMotte stated that this was a good question, noting that, with 100% allowed, the District would be much closer to the capacity it required for build-out. He added that, based on his conversation with the Staff, he did not feel that this waiver would be approved. The Board requested that Ms. Littlefield contact Mr. Jennings to discuss the possible waiver of this design limit. Mr. DeMotte then reviewed design issues relative to the low flow lift station, explaining that the lift station was undersized based on service requirements under the District's master plan. He also explained that the condition of the 14-inch force main would affect the decision because, if this force main needed to be replaced, it would add a substantial amount to the cost. He stated that Peabody Construction had estimated the cost of the evaluation to be approximately \$21,000, but that there would be additional costs incurred for pump and haul. Mr. Anderson presented the proposal from Peabody Construction attached as **Exhibit "G"** and reviewed it with the Board. Mr. DeMotte noted that this would allow inspection of both the 12 and 14 inch mains. He called the Board's attention to the revised estimate of probable costs contained in his memo, noting that the revisions had been made based on the projected cost of improvements to the low flow lift station and the possibility that the City would not allow a single force main to replace the 12 and 14 inch lines. Mr. DeMotte also stated that option 3 would also include a segment of line that the City anticipated constructing in the future and stated that this might allow for City cost participation. Director Campbell stated that he supported beginning the investigation of the condition of the 12 and 14 inch lines because this information was needed in order for the Board to make a decision. Director Richter then moved approval of the proposal from Peabody Construction, the related pump and haul expense, and up to \$5,000 in fees to Kimley-Horn and Associates for their work in connection with the project. Mr. Anderson reminded the Board that there was a risk in doing this work, as it could result in further repairs, but stated that an emergency response plan was in place, as previously discussed. Director Martinez seconded the motion, which was unanimously adopted. Mr. DeMotte then stated that he felt the City Staff would like to support the waiver, but it had no control over politics, which could affect the use of capacity in the line in the future. Mr. Foster reported that he could not finalize the bond application until the District had the final plan and costs for the line replacement.

Director Campbell then stated that the Board would receive a report on park development matters and recognized Mr. Foster. Mr. Foster reported that he had issued concurrence letters for Phase 2a and Phase 2c of the park project. He added that he had requested the partial release of

the fiscal for the project and the City inspector had indicated he had no objection to the request. Director Richter stated that the Lower Colorado River Authority representative had inspected the project and was very pleased with it, noting that there were still a few outstanding items, including the signage that was required under the grant. Mr. Foster then called the Board's attention to Pay Estimate No. 6, attached as **Exhibit "H"**, and recommended approval. Director Richter moved approval of the Pay Estimate as presented. Upon second by Director Gray, the motion was unanimously adopted. Mr. Foster stated that he was not recommending release of retainage until the District received its fiscal release from the City.

Director Richter then reviewed the updated park budget attached as **Exhibit "I"**. She explained that approximately \$1.6 Million remained out of the total budget and added that the Park Subcommittee was not planning to amend the budget categories, noting that most of the overages were showing up in the engineering category and that the budget provided a good overview of where the District stood. She stated that she anticipated that the District would end up with about \$750,000 remaining after completion of the current projects.

Director Campbell then recognized Mr. Rush for purposes of receiving a report on the District's park pavilion project. Mr. Rush reviewed the plans for the proposed park pavilion, noting that the plan sets were 100% complete. Director Richter explained that there had been some redesign of the playscape which provided more "bang for the buck." She also stated that they had included some landscaping around the pavilion to avoid the revegetation issue that had arisen in connection with the first phase of the park. Director Richter stated that she was very excited about the plan and pleased that the stone design from the signage master plan had been incorporated, which really tied things together. Director Richter also recommended that the Board move forward with the replacement of the graffiti resistant playscape equipment. Mr. Rush recommended a revision of the Order Adopting Minimum Criteria for the Qualification of Bidders on District Park Construction Contracts, a copy of which is attached as **Exhibit "J"**. He explained that this would open up the bid process to more bidders. Director Richter moved to approve the revised Order and to authorize advertising for bid for the pavilion project, including the optional items. Director Henderson seconded the motion, which was unanimously adopted. Mr. Rush stated that he anticipated advertising on May 30<sup>th</sup> and June 6<sup>th</sup>, and holding a pre-bid conference on June 8<sup>th</sup>. Ms. Littlefield stated that she believed that three advertisements were required. The Board agreed that it would hold a special meeting to accommodate the schedule if necessary. After discussion, the Board directed Ms. Littlefield to coordinate with Mr. Rush on a special meeting, if required. Ms. Littlefield suggested seeing if there was a charity or school which would like to re-use the existing playscape equipment. Director Richter requested that Mr. Robles look into options to do this.

Director Campbell then stated that the Board would discuss the District signage master plan. He explained that he and Director Gray would be meeting to actually verify the proposed sign locations and would then come back to the Board with a proposal to go out for bid for the sign fabrication and installation.

Director Campbell stated that the Board would next receive the report from the District's bookkeeper. Mr. Douthitt distributed the updated cash activity report attached as **Exhibit "C"**, and reviewed the payments and funds transfers being presented for approval. He stated that he had reviewed the payments with Director Henderson, who had approved them. He also advised the Board that the City of Austin's new winter-average for the District had come out earlier in

the week, and that he felt it was off slightly. He stated that the City's invoice would be adjusted, but that he had agreed to recommend the invoice be approved subject to a future credit. He noted that the winter-average had increased fairly significantly and that this would result in higher wholesale wastewater costs. He then reviewed the manager's checks, noting that most were deposit refunds. He also called the Board's attention to the disbursements for the park project out of the park fund. He confirmed that the District had received reimbursement from the City of Austin for the TexaScapes repair at the lift station. Director Henderson moved approval of the payments set forth in the updated report, with the exception of the payments to the Sheriff's Department previously approved, as well as the transfers and manager's checks. Upon second by Director Martinez, the motion was unanimously adopted.

Director Campbell then stated that the Board would receive the District's general manager's report. Mr. Anderson reviewed his directives and noted that he and Ms. Littlefield were working on alternatives to reduce write-offs. Mr. Anderson then reviewed his report, noting that the District's water loss was at about 14.1%, but that he thought a majority of this was a timing issue. He stated that he was looking into the irrigation accounts. He then presented the write-offs attached as **Exhibit "K"**, and recommended approval. He called the Board's attention to the 90-day accounts receivable, noting that the largest account had been reduced from about \$900 to \$300. He stated that another large account had entered into a payment agreement. He indicated that all of the accounts receivable, except Ms. Meeks, had paid their accounts down, but that his company had been required to pull Ms. Meeks' meter. He stated that he was working diligently to clean up the past-due accounts. Upon motion by Director Gray and second by Director Richter, the Board voted unanimously to approve the write-offs. Mr. Anderson then advised the Board that the City had cut off a master meter at I-35 and Lakes at Northtown during a repair, which had affected water pressure in Settler's Meadow. He stated that this was a valve issue, because water should have come from a secondary feed and that he would have a valve crew out in the District the following day to identify the problem. Mr. Anderson then reported that, with regard to the illegal dumping complaint, he had met with the Texas Commission on Environmental Quality Staff, but was told that this was a very low priority. Director Richter stated her frustration at the lack of responsiveness by the Commission. After discussion, the Board agreed that this might be an appropriate issue to address with the State senator and representative for the area that included the District.

Director Campbell then stated that the Board would receive the attorney's report and recognized Ms. Littlefield. Ms. Littlefield reviewed her directives from the prior Board meeting, noting that her only pending directive was to work with Mr. Anderson on possible revisions to the District's rate order to assure that the District had sufficient security to avoid large write-offs. Director Campbell recommended that the rate order be amended to require that reconnection fees and any additional security deposits be paid prior to reconnection of service. He also suggested that the deposit amount be increased to \$150 with \$750 cap going forward, stating that the information Mr. Anderson had provided indicated that a majority of the write-offs were owners and not renters. He stated that his concern was that it was not fair to the other residents when there are substantial write-offs. Director Gray asked for a report on default rates by category across the two groups, renters and owners and Mr. Anderson agreed to provide this.

At 8:15 p.m., Director Campbell stated that the Board would convene in executive session in order to receive legal advice from the District's attorney regarding District operations services. Mr. Anderson left the meeting at this time. At 8:53 p.m., the Board reconvened in

open session and Director Campbell announced that no action had been taken in executive session. Director Campbell then directed Ms. Littlefield to schedule a special meeting of the Board for 5:00 p.m. on Tuesday, June 1, 2010. She agreed to do so. There being no further business to come before the Board, the meeting was adjourned at 8:55 p.m.

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

(SEAL)

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Scott M. Gray, Secretary  
Board of Directors