

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

May 28, 2013

THE STATE OF TEXAS                   §  
  §  
COUNTY OF TRAVIS                   §

A meeting of the Board of Directors of Northtown Municipal Utility District was held on May 28, 2013, 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:

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

All of the Directors were present, 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"); Allen Douthitt of Bott & Douthitt, PLLC; Deputy Keith Kinnard of the Travis County Sheriff's Department; Richard Fadal of TexaScapes, Inc.; Kathy Haught, Alan Rivaldo and Lee Hill, residents of the District; Scott Foster of 360 Professional Services, Inc.; Randy Wilburn of the Law Offices of Randall Wilburn; Gary Edwards of The Community of Parkway Garden; Michael Olson of Sunscape Landscaping; and Sue Brooks Littlefield of Armbrust & Brown, PLLC.

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. Director Campbell recognized Mr. Edwards, noting that the Board understood that he had requested wastewater rate relief based on unexpected water usage during the winter-averaging period. Mr. Edwards advised the Board that he was the HOA manager for the Community at Parkway Garden, which had an irrigation system that was using two meters, and that the system had been upgraded to be a "smart water system" to avoid wasting water. He explained that there was an error in the programming of the system the prior winter and, during the winter-averaging period, they had excessive water usage. He stated that, because of the error, the HOA, which had a limited budget, was paying approximately \$3,000 a month for wastewater, which they did not use. Mr. Edwards stated that, not only were they hit with about \$15,000 in charges for wasted water, but also wastewater bills. He stated that he understood that it was the City of Austin's policy to charge these fees, and so they were asking the District if they could have the fees waived. Director Campbell explained that the District's wastewater charges were based on water usage in the winter, which was when the City calculated the wastewater charges. Mr. Edwards acknowledged that he understood this, but stated that this usage was caused by an error in the system. Director Campbell asked what had caused the error and Mr. Edwards stated that it was a programming error in the controller that went unnoticed until the HOA started getting the bills. Director Campbell stated that it was surprising that no one had noticed that the HOA was irrigating during that period. Mr. Edwards responded that the units were rental properties and the excessive usage had occurred during two months. Director Gray asked if the District was charged for wastewater for the full year based on usage during the winter-averaging period, and Mr. Anderson responded that it was. Director Campbell stated that the District's

policy was to pass the cost of wastewater through to the responsible customers. Director Richter added that, otherwise, the cost would have to be passed on to the District's other customers. Director Amaro asked if the City of Austin had a mechanism to review this type of issue. Mr. Anderson stated that he had contacted the City and the City would not provide any relief, as it had a strict policy that there were no waivers or exceptions. Ms. Littlefield advised the Board that there had been a precedent involving an apartment complex in the District and that the apartment complex was required to pay the charges. Director Campbell suggested that the Board convene in executive session to get legal advice on any possible remedy. Mr. Edwards stated that, if there was no relief offered, they would have to contact their attorneys, as they did not feel it was appropriate to be penalized for wastewater charges. He stated that he was unaware of this inappropriate charge until this year. Mr. Anderson asked how many properties were covered by the HOA and Mr. Edwards responded that there were 54 properties total, 43 of which were duplexes and 11 of which were single-family homes. Director Campbell thanked Mr. Edwards for attending and stated that the District would respond to his request the following day.

Mr. Wilburn stated that he would like to address his comments to the Board in executive session, and the Board agreed.

Director Gray then announced that he had sold his property in the District and so this would be his last Board meeting. He stated that it had been a pleasure working with the residents, the consultants and other Board members.

Director Campbell asked if there were any resident communications, and Mr. Hill thanked Ms. Oliver for the sign placed in his neighborhood. He stated that he was working on several projects with the City and the County, including a project working on a linear drain to address street flooding that had resulted in an accident recently. He stated that he was also working on a sidewalk on Howard Lane, as well as the removal of dead trees. Mr. Hill reported that the decrease in taxable valuation experienced the prior year was being recouped. He encouraged the Board to consider a financial plan that showed when bonds were being retired and issued and the Board stated that this was available and the District would provide it to him. Mr. Hill stated that he would like to see that the District's tax rate would be reduced over time and the Board confirmed that this was the goal. Mr. Hill then thanked the Sheriff's deputies for the increased patrols.

Director Campbell stated that the Board would next consider approving the minutes of the April 23, 2013 Board meeting. Upon motion by Director Richter and second by Director Gray, the Board voted unanimously to approve the minutes.

Director Campbell then recognized Deputy Kinnard for purposes of receiving the District's security report. Deputy Kinnard reported that the Sheriff's Department appreciated the support it had received from Mr. Anderson, Ms. Oliver and Director Richter in apprehending three burglars. He stated that it had not been a particularly bad month, but he did not have all the crime statistics because the Department was behind. He stated that he had attended the annual Brookfield HOA meeting, noting that about 80 people had attended, but the HOA still did not have a quorum. He stated that the HOA was pursuing past-due accounts and foreclosing when necessary. Deputy Kinnard stated that there had been a good "Q&A" time and that he had used the time to advise the HOA members of crime prevention actions that could be taken and to refer them to the District's website. He stated that the new HOA manager appeared to be very informed about what was going on in the neighborhood. Upon motion by Director Richter and second by Director Gray, the Board voted unanimously to approve the payments to the Sheriff's deputies set forth on the updated cash activity report attached as **Exhibit "B"**. Director Campbell stated that there had been an article in *Texas Monthly* that referenced a person in Brookfield who had been foreclosed on.

Director Campbell stated that the Board would next receive the landscape maintenance report and recognized Mr. Fadal. Mr. Fadal presented the plant of the month, *Salvia Gigantea*. He noted that it had a square stem, which was an indication that it was in the mint family. He stated that the landscape in the District was extra green and lush with the recent rains. Mr. Fadal stated that some of the wildflowers were headed to seed and that he expected to mow them at the end of the June since normally people wanted them to be mowed before the 4<sup>th</sup> of July. Director Richter commended Mr. Fadal on the revised mowing patterns in the District.

Director Campbell stated that the Board would next receive the on-site manager's report and recognized Ms. Oliver. Ms. Oliver reported that she had completed her directives relating to the Clean-up Day and the Texas Municipal League paperwork. She called the Board's attention to the maintenance report, attached as **Exhibit "C"**. Ms. Oliver stated that she had received a check from Allstate for collision damage to a fire hydrant. She then reviewed her monthly purchase requests. Director Richter recommended approval of the stump-grinding proposal attached as **Exhibit "D"**. She explained that the stumps identified were either in a mowing pattern or presented a trip hazard. Ms. Oliver agreed, noting that the staff work involved in the alternative proposal was not time effective in terms of staff time. Director Richter confirmed this and noted that there were sufficient funds in the budget to cover the cost of this work at \$6,200. Director Richter then moved approval of the proposal and, upon second by Director Gray, the motion was unanimously adopted. Director Richter then presented and moved approval of the proposal for signage explaining why the natural area was not being mowed, attached as **Exhibit "E"**, and Ms. Oliver explained that this sign would definitely reduce calls to the office. Upon second by Director Amaro, the motion was unanimously adopted. Director Richter then presented the proposals for mulch attached as **Exhibit "F"** and for rental of a skid loader attached as **Exhibit "G"**, noting the alternative was to have the mulch dumped and placed by staff, which would take about one week, or to have the provider place the mulch which would reduce the required staff time. Ms. Oliver stated that she preferred to have the provider blow the mulch into place. Director Martinez moved approval of the proposals with the provider placing the mulch and Director Richter seconded the motion. Director Gray asked if this work would really require a week of staff time, and Ms. Oliver responded that it would because there were normal tasks that also had to be done by staff every week. She stated that it would be problematic if, for example, there were trees down that needed to be cut up and removed. She stated that, in either case, they would need a skid loader for work on granite trails and relocation of boulders. At this time, Mr. Douthitt arrived at the meeting. Upon being put to a vote, the motion was unanimously adopted.

Director Campbell then recognized Mr. Foster for purposes of receiving the engineering report. Mr. Foster presented his report, attached as **Exhibit "H"**, and stated that Oaks at Techridge was under construction and that he expected completion the next year and also anticipated a new phase beginning the next year. Mr. Foster advised the Board that he had informed Village@Northtown that he was concerned about getting the Harris Ridge project accepted, and that this could affect availability of service. Mr. Foster then presented the final pay request from G Creek, Inc., attached as **Exhibit "I"** and recommended approval, with the understanding that payment would not be released until revegetation was established. Director Richter moved approval on this basis. Upon second by Director Martinez, the motion was unanimously adopted. Mr. Foster then presented an update on the MS4 permitting and commended Ms. Oliver for providing the summary of remaining punch list items. He presented the proposals from TexaScapes for pond repair and maintenance attached as **Exhibit "J"** and for ramp repair attached as **Exhibit "K"**. Director Richter stated that she was pleased that the scope of required work was so much smaller than in the prior year and that she was definitely in favor of proceeding. Director Richter explained that the ramp had been undermined by nutria. After discussion, the Board agreed that, based on the new level of monitoring, it was unlikely that this level of damage would be experienced again. Upon motion by Director Richter and second by Director Martinez, the Board voted to approve the proposals, with Director Campbell

abstaining from the vote based on his previous discussion with the Board regarding his web design work for TexaScapes.

Mr. Foster then presented the proposal for visual inspection of the ponds attached as **Exhibit “L”**. Upon motion by Director Richter and second by Director Amaro, the Board voted unanimously to approve the proposal.

Mr. Foster then advised the Board that he had continued to study alternatives for the force main repair and explained that he had identified three options on Harris Ridge, summarized on **Exhibit “M”**. He stated that he had discussed these options with a contractor and felt these were viable options. In response to a question from Director Campbell, he stated that his firm’s proposed fees would remain constant for either option 4b or 4c. Mr. Foster stated that he would be comfortable approving tasks 1, 2 and 3 and postponing the balance until the alignment was finalized. Director Richter then moved approval of tasks 1, 2 and 3 set forth in the proposal and, upon second by Director Amaro, the motion was unanimously adopted.

Director Campbell then recognized Mr. Douthitt for purposes of receiving the bookkeeper’s report. Mr. Douthitt presented the updated bookkeeper’s report attached as **Exhibit “B”** and reviewed it with the Board. He reviewed the action list on page one of his report, including the funds transfers he was recommending for approval. He then reviewed the disbursements that were being presented for approval, noting that these had been reviewed by Directors Gray and Amaro, and called the Board’s attention to the payments that had been added since the packet date. Mr. Douthitt then reviewed the disbursements from the manager’s account that had been made since that last meeting. Upon motion by Director Gray and second by Director Amaro, the Board voted unanimously to approve the payment of the bills and invoices, with the exception of the payment to the Sheriff’s deputies previously approved, and the transfers as presented.

Director Campbell then recognized Mr. Anderson for purposes of receiving the general manager’s report. Mr. Anderson reviewed his report, noting that the District currently had 2,860 occupied single-family residences and 2,965 active connections and had experienced an 11% water gain during the prior billing period. He stated that the District had one 90-day delinquent account, which was the account the District had experienced prior problems with, and stated that he had pulled the meter at the residence, but did not believe the resident had moved out. He presented the list of write-offs, attached as **Exhibit “N”**. He requested that the security deposit item be deferred until the next meeting. Upon motion by Director Gray and second by Director Richter, the Board voted unanimously to approve the write-offs.

Director Campbell then stated that the Board would receive a report on the District’s park development matters. Director Martinez presented the proposal from TexaScapes attached as **Exhibit “O”** for landscaping at the park signage. Upon motion by Director Martinez and second by Director Richter, the Board voted unanimously to approve the proposal, with Director Campbell abstaining from the vote.

Director Campbell stated that the Board would next receive the attorney’s report and recognized Ms. Littlefield. Ms. Littlefield stated that she had provided a referral for a retirement plan consultant to Ms. Oliver as requested. Director Martinez and Director Richter agreed to work with Ms. Oliver on the proposed employee retirement plan.

Director Campbell then stated that the Board would discuss the City of Austin’s wholesale water and wastewater rates and noted that the Board would receive a report from the District’s special legal counsel in executive session. He also advised those present that, as announced earlier, Director Gray would be resigning effective as of the end of the meeting. He noted that Director Gray would be difficult to replace, especially due to his time and attention

spent on financial matters. He asked the regular attendees if they were interested in being considered for appointment to fill the vacancy. Ms. Haught stated that she was interested in serving, noting that, although she did not feel she could fill Director Gray's shoes, she felt she could make a contribution. Mr. Rivaldo stated that he would be hesitant to agree to serve at this point of time. Mr. Hill stated that he would support the appointment of Ms. Haught.

At 7:22 p.m., Director Campbell stated that the Board would convene in executive session as permitted by Section 551.071 of Texas Government Code in order to receive legal advice regarding the Community at Parkway Garden's request for a rate adjustment and regarding the wholesale rate challenge. At 7:48 p.m., the Board reconvened in open session and Director Campbell announced that no action had been taken in executive session.

Director Richter then moved that the Board move forward with the joint wholesale rate challenge, with no additional funds authorization at this time. Upon second by Director Amaro, the motion was unanimously adopted.

Director Richter then recommended that the Board direct Mr. Anderson to contact the Community at Parkway Gardens and advise them that, given the threat of litigation, they should have their legal counsel contact the District's attorney and that the District was unable to offer any reduction at this time.

The Board then acknowledged Director Gray's contributions to the District and its appreciation for his service and attention to detail.

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

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

(SEAL)

\_\_\_\_\_  
Alex Martinez, Secretary  
Board of Directors