

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

November 16, 2009

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 November 16, 2009, 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:

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

and all of the Directors were present, except Director Martinez, thus constituting a quorum. Also present at the meeting were Allen Douthitt of Bott & Douthitt, P.L.L.C.; Jesse Kennis of Wells Branch Municipal Utility District; Sam Jones and Ken Heroy of Jones-Heroy & Associates, Inc.; Robert Anderson of SWWC Services, Inc. ("SWWC"); Richard Fadal of TexaScapes, Inc.; Scott Foster and Michael Mott of Kimley-Horn & Associates, Inc.; Thomas Addison, a resident of the District; Cheryl Allen of Southwest Securities and Sue Brooks Littlefield of Armbrust & Brown, L.L.P. 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 consider taking action regarding the consent items on the Board's meeting agenda: the minutes of October 27, 2009 Board meeting; a revised District Registration Form; the Amended Order Establishing Service Rates, Charges and Tap Fees and Adopting Rules and Policies with Respect to the District's Water, Wastewater and Drainage Systems attached as **Exhibit "B"** and the Resolution Confirming Annual Review of District's Code of Ethics and Financial Investment, Travel and Professional Services Policy and Investment Strategy attached as **Exhibit "C"**. Upon motion by Director Henderson and second by Director Gray, the Board voted unanimously to approve the consent items.

Director Campbell then recognized Mr. Fadal, for purposes of receiving the landscape maintenance report. Mr. Fadal presented his report, a copy of which is attached as **Exhibit "D"**, and advised the Board that landscape maintenance was going well. He stated that his crews had started the large tree removal project, and that he hoped to meet with the Park Subcommittee within the next week or so.

Director Campbell then noted that the Board would receive citizens' communications, and recognized Mr. Addison. Mr. Addison stated that he lived at 109 Segovia Way in Wildflower, and had received a letter about a storage building that was located on his property. He stated that he had installed a high quality storage unit on his driveway pad in order to store

his Harley-Davidsons. He informed the Board that he had moved into his home in 1997, and had received a copy of the covenants in 2000, and that these covenants had not restricted his placement of the storage building on his driveway. Mr. Addison indicated that he had obtained approval for the installation from David Armistead, who was the Homeowners' Association's representative at the time. He indicated that he had installed the building in July 2005, and that a covenant had apparently been put in place in 2006 which restricted against storage buildings. He stated that nothing had been said to him about the storage building until this year, and that he felt he should be grandfathered. Director Campbell inquired about the change which he reported in the restrictive covenants, and noted that the Board would need to know if the covenants had been legally amended. Mr. Addison indicated that there were problems with the Homeowners' Association and that it was difficult to know who was in charge. He also reported that there were about six abandoned vehicles in his alley and asked what could be done about the problem. After discussion, the Board directed Ms. Littlefield to determine what rules were applicable to Mr. Addison's property and to get back in touch with him regarding the matter, and she agreed to do so.

Director Campbell then stated that the Board would consider taking action regarding the proposed 2010 bond issue. He noted that there had been a change in the amount of the proposed issue, and that he was not sure he was comfortable proceeding at this time. Ms. Allen explained that the amount had changed because her office had been using estimated amounts and Mr. Jones had now provided them with the actual reimbursable figures. Mr. Jones reported that he had not included the cost for the District's bypass line in the issue, and explained that, as the plans for this project were not finalized, any proceeds would have to be escrowed similarly to what had been done for the Settler's Meadow water and wastewater project. He stated that it was up to the Board if it wanted to use available funds for that project or to issue bonds to finance it. Ms. Allen stated that the Board would not have to approve an actual amount of bonds until the resolution was approved, which would be after the engineering report was completed. Ms. Littlefield noted that the bypass line was a District project, but was described as a developer project, subject to the 70% rule, on the sheet summarizing the projects proposed to be funded. Mr. Jones confirmed that this was a District project, which would be a 100% project. Ms. Allen then reviewed the tax rate analysis included in her report, attached as **Exhibit "E"** and stated that the District's general fund would increase each year even with a higher debt service tax rate and a lower operations and maintenance tax rate. Director Campbell pointed out that, as recently as September, the Board had received information that included projects for funding which had already been bonded by the District. He stated that he was not comfortable proceeding at this time, but felt that it might be appropriate to appoint a subcommittee to work on this matter between Board meetings. Ms. Allen apologized if there had been an error, but stated that she needed the Board's direction to move forward. Director Campbell proposed that the Board appoint a subcommittee to review the information. Mr. Jones then explained that he had sent an Excel file to Crystal Kaylakie of Ms. Allen's office, and believed that this had caused the confusion. He stated that the latest table which was included in the information which had been provided by Ms. Allen did show the correct projects. After discussion, the Board agreed that a subcommittee consisting of Directors Gray and Campbell should meet with Ms. Allen to review the information, and make a recommendation to the Board on moving forward at the next meeting.

Director Campbell then stated that the Board would receive a report under the Interlocal Agreement with Wells Branch Municipal Utility District, and recognized Mr. Kennis. Mr.

Kennis reported that his office had revised the restrictive covenant violation form to include an email address, as requested. He also reported that water samples had been collected from the well in the Stoney Creek Park, and that Horizon Environmental would be analyzing the samples and providing the Board with guidance on how to proceed. He stated that, once the results were received from Horizon, the Board could plan on proceeding with a test well either in another location or in the same location. He noted that, as the result of the recent rains, there had been some maintenance issues which were being addressed. Mr. Kennis reported that he had retained Captex in order to clear the pipe at the Ceylon Tea Pond and, once the District received Horizon's report on responding to the violation issue raised by the City of Austin notice attached as **Exhibit "F"**, the Board could determine what additional work was required. After discussion, Director Richter moved that the Park Subcommittee be authorized, as an emergency item, to take any action necessary to address the Ceylon Tea pond violation issue because of the deadline under the notice of violation. Director Gray seconded the motion, which was unanimously adopted. Mr. Kennis confirmed that his crews were inspecting the District's ponds, and had provided this information to the City of Austin. Mr. Kennis also reported that the covenant violation at 13709 Greinert, relating to fence maintenance, had been resolved. Director Richter expressed a concern regarding the lack of alley maintenance in Wildflower, and the Board concurred. Ms. Littlefield agreed to follow up with the Wildflower Homeowners' Association board to determine if the board would be addressing the lack of maintenance. Ms. Littlefield then reported that, after discussing the matter with the District's litigation counsel, she did not recommend a change in the District's restrictive covenant policy with regard to enforcement actions relating to trash cans in public view. She stated that it was a fact question whether or not the location of a trash can was "within public view", and explained that, if the Board distinguished between certain visible trash cans and others, it could possibly be deemed to have waived the enforcement of the covenant. Mr. Kennis then recommended that the Board proceed with painting address numbers in the alleys in the Wildflower subdivision as a Boy Scout project. He stated that this had previously been done with the District paying for materials and the Boy Scouts providing the labor as a Scout project. Ms. Littlefield stated that the alleys were private, and recommended obtaining permission from the Homeowners' Association board before proceeding. The Board agreed, and requested that Ms. Littlefield contact the Homeowners' Association board to obtain its consent. Mr. Kennis requested that, when Ms. Littlefield received the consent, she forward it to his office.

Director Campbell then noted that Deputy Kinnard had arrived at the meeting, and recognized him for purposes of receiving the security report. Deputy Kinnard stated that he was unaware of any recent graffiti, and felt that the Sheriff's Department's stepped-up presence had resulted in a reduction. Director Campbell reported that Mr. Addison had advised the Board of a problem with many vehicles being parked in the alleys in Wildflower, noting that these vehicles appeared to be abandoned. Deputy Kinnard stated that he was waiting to receive authority to tow from the alleys, and explained that this was a different situation since the alleys were private. Ms. Littlefield inquired whether he could still tag the vehicles, and he indicated that he could and would do so. Director Richter thanked Deputy Kinnard for providing a list of the street lights which were out, and Mr. Anderson confirmed that he had forwarded the list to the City of Austin, but that the repairs had not yet been made. Deputy Kinnard reported that there had been some gang fighting going on in the District, and that his Department was attempting to address the problem. Director Henderson stated that he was pleased that the Travis County Sheriff's Department had broken up a burglary ring within the District, and Deputy Kinnard confirmed that this had been done by the patrol staff. Director Henderson inquired whether Deputy Kinnard

recommended that a light be installed in Meadow Pointe Park, and Deputy Kinnard recommended that this be deferred for the present. After discussion, Director Richter moved that the Board approve Checks No. 3554 in the amount of \$560, 3559 in the amount of \$1,837.50 and 3563 in the amount of \$1,027.50 for security services. Upon second by Director Henderson, the motion was unanimously adopted.

Director Campbell then stated that the Board would receive a report on park development matters. Director Richter reported that the parking lot had been paved and that she expected it would be striped before the next meeting. She reminded the Board that it had previously approved Change Order No. 2 to the park construction contract for an overlay of the existing trails. She stated that much of the trail system had washed out during the recent rains, and that the contractor could replace the trails on higher ground and was willing to give the District a credit for the overlay amount, resulting in a net amount of \$3,576 in additional cost for the replacement and relocation. She added that Mr. Foster would also need to process an application for City approval of the relocation and that his proposal for doing so was in the amount of \$4,500. Director Richter then moved that the Board approve Change Order No. 4 in the amount of \$3,576, a copy of which is attached as Exhibit "G", and the Additional Services Addendum No. 4 with Kimley-Horn and Associates, Inc. attached as Exhibit "H" in order to get the trail improvements permitted. Director Gray seconded the motion, which was unanimously adopted. Director Campbell pointed out that the Board would need to revise its Park Master Plan to show the relocation of the trails. After discussion, the Board agreed to defer revising the Park Master Plan until the park construction project was complete, as additional minor changes might also need to be incorporated. Director Henderson requested that the Board carry over the Park Subcommittee's directive on contacting Continental Homes regarding a possible District office, and noted that the Subcommittee might need assistance from Ms. Littlefield in doing this. The Board agreed that the Park Subcommittee should contact Ms. Littlefield if it needed assistance. Director Richter stated that the Park Subcommittee would be bringing back a proposal from Horizon Environmental for maintenance of the Ceylon Tea wet pond in order to avoid future ordinance violations. She requested that the Board carry over the directive on revising the rules and signage for the wet pond. Director Campbell requested a status update on the Wildflower fence project, noting that the deadline which had been established was fast approaching. After discussion, the Board agreed that, as the Board would not be meeting until December 14th, it would extend the deadline to December 14th to obtain all of the consents necessary to proceed with the project, but, if the consents were not obtained prior to the December meeting, then it did not expect to continue with the project.

Director Henderson noted that he had not received a response from the resident from whom the District had requested the trail easement recommended by Mr. Foster. He stated that he might need assistance from Ms. Littlefield on coordinating with the resident, and noted that he was now unclear whether or not the individual he had spoken to was the actual property owner.

Mr. Foster then presented Pay Estimate No. 3 in the amount of \$99,997.28 for the Park Construction Project, Phase 2A, a copy of which is attached as Exhibit "I". He confirmed that he had received the necessary lien waiver from the contractor. Upon motion by Director Richter and second by Director Henderson, the Board voted unanimously to approve the Pay Estimate.

Director Campbell then stated that the Board would consider taking action regarding District signage, and presented the Board with a sample sign. The Board agreed that it was very

pleased with the work which had been done by TBG Partners and Jeff Raudabaugh on the signage master plan, and appreciated the effort which had gone into providing the District with this visual aid.

Director Campbell then stated that the Board would receive a report from the District's engineer, and recognized Mr. Jones. Mr. Jones stated that his firm had received two directives, one of which was to obtain a proposal from Kimley-Horn and Associates for the bypass project. He stated that this had been done as requested. He also reported that he contacted the contractor and the project engineer for the Heatherwilde/Wells Branch Parkway improvements regarding the deficiencies in the project. He noted that the project was still not complete, and that he had not received the close-out documents. He presented his report, a copy of which is attached as **Exhibit "J"**, and reviewed it with the Board. He reminded the Board that the District had previously accepted the facilities in the Lakes at Northtown, Section 1, except the pond facility. He stated that he had sent the letter attached as **Exhibit "K"**, pointing out the deficiencies in the pond. Mr. Jones also reported that his firm had submitted the annual report required under the District's MS4 Permit. Mr. Heroy reported that he had obtained an aerial map which showed all of the ponds within the District, and provided copies to the Park Subcommittee as well as Mr. Kennis. He noted that the District's ponds and the Homeowners' Association ponds were separately color-coded. He also explained that Pond B at the Village @ Northtown, had been tagged with graffiti again. He noted that he understood that this pond was to be maintained by the County. Director Richter expressed concern stating that, in order to avoid the graffiti becoming an ongoing problem, it would need to be addressed quickly. Director Henderson also pointed out that the fence around the pond was inadequate, as it was only about three feet high, and could easily be breached. The Board requested that Ms. Littlefield contact the attorney for the Village @ Northtown and advise him of the inadequacy of both the fencing and the maintenance, and the need to address both issues promptly. Ms. Littlefield reported that her office had sent out a letter to the Lakes at Tech Ridge Homeowners' Association regarding the need for maintenance of the Tech Ridge pond, a copy of which is attached as **Exhibit "L"**.

Mr. Jones then inquired whether, in light of the Board's meeting the previous week, the Board had any direction to his firm on how to proceed. Ms. Littlefield stated that the Board had not taken any action regarding engineering services, and recommended that Mr. Jones proceed as was customary.

Mr. Heroy then advised the Board that Kimley-Horn and Associates had prepared the proposal for the bypass project attached as **Exhibit "M"**, and that he had reviewed it and believed it was fine. Mr. Foster introduced Mr. Mott, and stated that he would be the project engineer in charge of the bypass project. He also clarified that the proposal did not include any work to upgrade the East Lift Station, and that this work would be provided as an additional service if required. He noted that there were some alternatives included in the proposal, including one for a reforestation plan, if the Board desired. Ms. Littlefield stated that she had understood that the proposal would be presented in two phases, phase one being the feasibility assessment and phase two being the actual design work. She noted that the fees included were set out as a lump sum amount, which would not allow the Board to pay only for the feasibility study if it did not proceed. After discussion, Director Richter moved that the Board approve the proposal with respect to the feasibility work only, including step one and steps two and three, as necessary, at a cost not to exceed \$15,000. Mr. Foster agreed that this would be acceptable. Director Gray seconded the motion, which was unanimously adopted.

Director Campbell then recognized Mr. Douthitt, for purposes of receiving a report from the District's bookkeeper. Mr. Douthitt reviewed the updated cash activity report attached as **Exhibit "N"**, and pointed out that Texas Disposal Systems hadn't increased its charges to the District, although a rate adjustment had been approved in the recent contract amendment. Director Richter inquired regarding the payments to the City of Austin for electrical service, and asked whether these were routine. Mr. Douthitt confirmed that these were the regular monthly charges for street lighting and lift station electricity. Mr. Douthitt then reviewed the District's financial information with the Board, noting that the District was already ahead of budget. Upon motion by Director Richter and second by Director Henderson, the Board voted unanimously to approve the payment of the bills and invoices as set forth on the updated cash activity, with the exception of the per diem check to Director Martinez, which would be voided due to his absence, and with a notation that the three checks for security had already been approved.

Director Richter requested that Ms. Littlefield notify the Homeowners' Association of the changes in the District's grinder pump rules, and she agreed to do so.

Director Campbell then recognized Mr. Anderson, for purposes of receiving a report from the District's general manager. Mr. Anderson advised the Board that the District had experienced a 6% water gain during the previous billing period. He presented the write-off list attached as **Exhibit "O"** and Ms. Littlefield requested an explanation of the Ortega write-off in the amount of \$580.89. Mr. Anderson confirmed that his office had made a procedural error because the billing staff had accepted hot checks two months in a row when it should not have accepted the second hot check. He noted that he had confirmed that the account had been flagged to state that no further checks should be accepted. Director Richter stated that she would like to know how much of the fee responsibility for this write-off should be borne by SWWC Services. Ms. Littlefield stated that it was normally her position that, if the District experienced a loss as a result of an error by the management company, the management company should bear that portion of the cost. After discussion, upon motion by Director Henderson and second by Director Gray, the Board voted unanimously to approve the write-offs.

There being no further business to come before the Board, the meeting was adjourned at 7:50 p.m.

Date:_____.

(SEAL)

Scott M. Gray, Secretary
Board of Directors