

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

December 14, 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 December 14, 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 Campbell, thus constituting a quorum. Also present at the meeting were Jesse Kennis and Mona Oliver of Wells Branch Municipal Utility District; Ken Heroy of Jones-Heroy & Associates, Inc.; Robert Anderson of SWWC Services, Inc. ("SWWC"); Allen Douthitt of Bott & Douthitt, P.L.L.C.; Scott Foster of Kimley-Horn & Associates, Inc.; Crystal Kaylakie of Southwest Securities; Glen Scott and Amanda Gomez, residents of the District and Sue Brooks Littlefield of Armbrust & Brown, L.L.P.

Director Richter called the meeting to order at 5:45 p.m. and noted that Director Campbell had been unable to attend due to a back injury. She stated that the Board would first consider approving the consent items on the Board's meeting agenda: the minutes of the November 11 and November 16, 2009 Board meetings; the Resolution Amending Code of Ethics and Financial Investment, Travel and Professional Services Policy and Adopting Revised List of Qualified Brokers attached as **Exhibit "B"** and authorizing posting of Notice of Deadline to File Applications for Place on the Ballot in connection with the May 2010 Directors Election. Director Henderson moved approval of the consent items, but requested that Ms. Littlefield double check the starting time of the November 11, 2009 meeting, noting that he believed it might be incorrectly referenced in the meeting minutes. She agreed to do so. Upon second by Director Gray, the consent items were unanimously approved by the Board.

Director Richter then recognized Glen Scott, who advised the Board that he was a resident at 110 Wild Senna. He stated that he had received a notice regarding his fence, noting that he had previously received a notice to remove it and now had received a notice to repair it. He stated that he would like an extension of time to deal with the problem. After discussion, the Board requested that Mr. Scott coordinate with Ms. Oliver, which would enable the Board to determine how this matter needed to be addressed.

Director Richter stated that the Board would next consider taking action regarding the District's proposed 2010 bond issue. Director Gray stated that he and Director Campbell had not

yet had a Subcommittee meeting with Ms. Allen, and requested that this item be deferred to the January meeting agenda.

Director Richter then recognized Mr. Kennis, for purposes of receiving a report under the Interlocal Agreement with Wells Branch Municipal Utility District. Mr. Kennis presented his report, a copy of which is attached as **Exhibit "C"**, and updated the Board on maintenance work which had been done over the last month. Director Richter reported that one dog waste station had been damaged by vandals several times, adding that the Park Subcommittee did not recommend replacing the trash can at that location. Ms. Oliver inquired how long the Board wished to grant extensions for things like fence repairs, and Director Richter responded that the Board wanted to be reasonable, particularly in this time of economic hardship. After discussion, the Board agreed that, if a request for an extension was for more than 60 days, Ms. Oliver should bring it to the Board, but that, otherwise, she would be authorized to grant an extension for up to 60 days. The Board then discussed a complaint which had been received regarding a tree removal and proposed construction of a fountain at 324 Wild Senna. No action was taken. Ms. Oliver inquired as to the status of the Wildflower Homeowners' Association's consent to paint address numbers in the alleys and Ms. Littlefield responded that she believed that the Board of Directors of the Wildflower Homeowners' Association would provide its consent the following day. Director Richter inquired as to the cost of doing the painting, and Ms. Oliver indicated that it was minimal as the District would just cover the cost of the materials. The Board then discussed the Wildflower subdivision fence project and the status of the resident easements which were needed to allow the construction of the fence along McCallen Pass/Heatherwilde Boulevard. Ms. Littlefield presented the color-coded survey plat attached as **Exhibit "D"**, noting that she believed only two addresses were currently outstanding. She suggested that the Board allow an extension of time to the January Board meeting, in order to allow the residents and her office to continue to work to obtain the outstanding consents. The Board agreed that the Homeowners' Association should be allowed this additional time. Ms. Gomez then addressed the Board, noting that she had contacted the last two residents, and that one resident apparently did not speak English and that one resident's home was rented by a relative who had only provided her with the District's letter the previous day. She stated that she was hopeful that she would be able to get these residents' consent.

Director Richter reminded the Board that an update of the Wells Branch Interlocal Agreement was currently in process, and stated that one issue that had come up was reimbursement for mileage. She requested the Board's authorization to reimburse Wells Branch Municipal Utility District for vehicle use pending finalization of the revised agreement, and presented the spreadsheet attached as **Exhibit "E"** showing her analysis of the expense. She noted that the reimbursement amount being requested was \$444.44 per month. Director Richter stated that the current structure of the Interlocal Agreement was confusing, and that there would be an effort to simplify it in the new agreement. Mr. Kennis stated that, in the past, the District had been paying Wells Branch Municipal Utility District for employee costs, but not for vehicle use. After further discussion, Director Gray moved that the Board approve a reimbursement of \$444.44 per month for vehicle use until the new Interlocal Agreement was finalized. Director Martinez seconded the motion, which was unanimously adopted. Mr. Douthitt inquired as to the effective date of this reimbursement, and the Board agreed that it would be effective for the current month.

Director Richter then stated that the Board would consider taking action regarding landscape maintenance. She noted that Mr. Fadal would not be present, due to the fact that he had had oral surgery and had encountered complications. She presented the proposal for a Pecan Grove at Stoney Creek Park attached as **Exhibit "F"**, and noted that this was part of the Park Subcommittee's plan to begin reforestation of the trees within the District. She stated that this particular grove would be at the end of the Wildflower planting area, and that the proposal was for 24 trees. Director Gray inquired whether this cost was included in the park master plan budget, and Director Richter responded that it was, as part of the landscaping budget. Mr. Douthitt distributed the updated Park Budget attached as **Exhibit "G"** and the Board reviewed it. After discussion, Director Martinez moved that the Board approve the proposal, with a stipulation that all trees be warranted for a one-year period. Director Gray seconded the motion, which was unanimously adopted. Director Richter then updated the Board on the status of the large dead tree removal on Battenberg, noting that it was 85% complete and that the area looked very nice. She then presented the proposal attached as **Exhibit "H"**, and explained that this was for dead tree removal on the Stoney Creek side of the creek. She stated that this would get the project completed from the trail to the Stoney Creek Bridge. Upon motion by Director Gray and second by Director Martinez, the Board voted unanimously to approve the proposal.

Director Richter then stated that the Board would consider taking action regarding park development matters. She called the Board's attention to the updated Park Budget which had previously been distributed by Mr. Douthitt, and noted that about 31% of the budget had been spent to date, prior to the pending pay estimate for Central Road and Utilities which would be considered later in the meeting. Mr. Foster reported that the contractor was beginning to clear up the site, and was beginning to get grass growth in the areas that needed to be revegetated. He presented Pay Estimate No. 4 in the amount of \$126,649.18, a copy of which is attached as **Exhibit "I"**, and recommended approval. He stated that he was also requesting that the Park Subcommittee be authorized to extend the contract completion date for up to 30 days, to account for rain delays. He noted that, through change orders, the completion date was currently January 19th, and so this extension would allow the contractor until February 18, 2010 to complete the project. He indicated that he believed that 30 days was ample time to allow completion. After discussion, upon motion by Director Henderson and second by Director Gray, the Board voted unanimously to approve the Pay Estimate as presented, to authorize Mr. Foster to prepare a change order for the 30-day extension, and to authorize Director Richter to sign the change order upon its approval by Mr. Foster. Director Richter noted that she had notified the contractor that he needed to clean up the site or would be fined, and that it had begun looking much better. Director Martinez agreed.

Ms. Littlefield advised the Board that, in conjunction with the proposed District office, she had contacted Mr. Anker of DR Horton regarding the proposed condominium site, but that it would not work for a District office due to use restrictions. She presented the letter attached as **Exhibit "J"** regarding the proposed trail easement and reviewed it with the Board.

Mr. Foster then updated the Board on the status of the Notice of Violation which had been received in connection with the Ceylon Tea wet pond. He stated that the City of Austin's inspector had been very cooperative, and that he had been advised that the original inspection had been in response to a complaint from a District resident. He stated that the City was happy with the results of the District's clean-up work, and had pointed out that the revegetation would need to be trimmed back over time. Mr. Foster noted that the inspector had also brought up a

concern regarding the Tudor House pond at Dessau. He agreed to inspect that pond and make a recommendation regarding any work that needed to be done. Ms. Littlefield recommended that the District contract for routine maintenance of its wet ponds either through Horizon Environmental or another contractor acceptable to Mr. Foster and the Board. The Board agreed, and directed Mr. Foster to determine which ponds were the District's responsibility and come up with a plan for ongoing maintenance. Mr. Foster agreed to do so. Director Martinez inquired whether an additional subcommittee needed to be created to deal with the wet ponds. Director Richter responded that she felt the ponds could be handled by the District's engineer coming up with a plan and determining how to regularly address maintenance needs. Director Richter inquired what Mr. Foster's expectation was with regard to the Tudor House pond, and Mr. Foster proposed that he come back to the Board at its January meeting with a budget and a proposal for the repairs. Mr. Foster confirmed that the City Inspector would provide a letter approving the work which had been done with regard to the Ceylon Tea pond. The Board then discussed the need for security lighting along McCallen Pass, and Ms. Littlefield agreed to contact the City of Austin and Travis County to attempt to determine why street lights had not been installed on that roadway. Director Henderson stated that he believed that the lack of lighting was a safety issue. Director Gray requested that Ms. Littlefield also provide a cost for installing the type of lighting which was normally installed along major roadway such as McCallen Pass, and she agreed to do so.

Director Richter then stated that the Board would consider taking action regarding District signage and the signage master plan. Director Gray stated that the Signage Subcommittee was still working on the master plan, but expected that the consultant would provide the final report by the next Board meeting. Director Henderson stated that the Park Subcommittee would like new signs for the Ceylon Tea pond.

Director Richter then stated that the Board would consider taking action regarding engineering services and recognized Mr. Heroy. Mr. Heroy pointed out that his firm's letter of resignation was included in the Board's meeting packet, and that the resignation would be effective December 23rd. He stated that he would meet with Mr. Foster the following day to transition files and to bring Mr. Foster up to speed on all ongoing District matters. He presented his firm's report, a copy of which is attached as **Exhibit "K"**, and reviewed it with the Board. He noted that a letter had been sent out with regard to the Lake at Tech Ridge pond, and that he had reinspected the pond a few weeks previously and it looked much better. He stated that it should be checked for ongoing maintenance, and that a plant replacement program might be required in the spring. He noted that, for the Lakes Section 1 pond, KB Home had been notified of the need for repairs, but that this work had still not been done. Ms. Littlefield agreed to follow up with John Zinsmeyer regarding the problem. Mr. Heroy indicated that nothing new had occurred with respect to the Lakes at Northtown Section 3 and that he had not been contacted for a preconstruction meeting. He stated that Mr. Foster would bring a report on the Dessau wastewater treatment plant and improvements under the Tri-Party Agreement with the City of Austin, Aus-Cal, L.L.C., Tex Aust Limited Partnership and Dessau Fountains Estates, L.L.C. to the next Board meeting. Mr. Heroy reported that the permit application for the District's on-channel reservoir permit was currently going through the process, and that he anticipated receiving an order approving the permit soon. The Board agreed that Mr. Heroy should finish up this project since he was the engineer of record.

Mr. Heroy then reported that he had received the close-out documents from HNTB, the project engineer for the Heatherwilde/Wells Branch Parkway improvements, earlier in the day, and that he would provide these to Mr. Foster at the time the files were transitioned. He stated that Mr. Dustin Elliott, the project manager, had indicated that all punch list items had been addressed, and that he had checked the granite depth on the trail repair and it looked like they had done what was requested. He also stated that Mr. Elliott had confirmed that his client would remove the graffiti from the pond embankments.

Director Richter reported that the Engineering Contract Subcommittee was planning to meet with Mr. Foster the following week on the new engineering contract. She stated that she assumed that the Board would work out any engineering issues that arose during the transition. Ms. Littlefield noted that Mr. Heroy had agreed to transfer his firm's copy of the District Handbook to Mr. Foster. Director Richter requested that Mr. Heroy copy Director Martinez and Director Campbell on any transition paperwork, and he agreed to do so.

Director Richter then stated that the Board would consider taking action regarding bookkeeping matters, and recognized Mr. Douthitt. Mr. Douthitt presented the updated cash activity report attached as Exhibit "K", and reviewed the payments being presented for approval, as set forth on the report. He also noted that he was proposing two transfers, one from the District's tax account to its operating account, and one from the Logic park account to the checking account to cover park expenses being presented for approval at this meeting. Upon motion by Director Henderson and second by Director Gray, the Board voted unanimously to approve the payment of the bills and invoices and transfers as presented. Mr. Douthitt indicated that he needed to meet with Director Gray on the certificates of deposits which were maturing, and noted that he was recommending rolling those certificates of deposit to a six month maturity. Director Gray agreed to meet with Mr. Douthitt on this matter.

Director Richter then stated that the Board would receive a report from the District's general manager and recognized Mr. Anderson. Mr. Anderson noted that Ms. Littlefield had asked him to provide a detail on the account on which his firm had accepted two insufficient funds checks. He stated that he had determined that the second insufficient funds check had not affected the balance which the District had ended up writing off. He proposed that the District's Rate Order be amended to state that the District would not accept checks from a customer if they had previously paid with an insufficient funds check. Ms. Littlefield agreed to make this revision and bring back a Rate Order amendment for the Board's consideration at the next meeting. Mr. Anderson then reported that he had determined that a District customer had set up an account without posting a deposit and that, not only had she not ever paid the deposit, she had not paid her water bill. He stated that his company had locked the meter, but that the customer had pulled the pin and the District had experienced a loss. He stated that his company would reimburse the District for the loss on this customer. He added that his operator had verified that the water was still shut off at this address, although the customer had not moved from the District.

Mr. Anderson reminded the Board that he had identified a bypass that had been opened on Tech Ridge and that he had worked with the customer on the billing and an appropriate adjustment. He stated that Tech Ridge apartments had now paid the amount in full. He stated that DR Horton had been more difficult, noting that the Parkside Condominiums' property manager had "dropped the ball" on the reimbursement due to the District, but that he had spoken

with DR Horton's finance director earlier in the day and anticipated payment shortly. Director Richter inquired regarding the District's water loss, and Mr. Anderson confirmed that the loss was well within industry standards. He stated that he was now comfortable that he had the District's water loss under control. Mr. Anderson reported that, with regard to the Clear Wireless project, Cheryl Forte was no longer with Clear Wireless and that he would be working with a new project manager. He also reported that he had contacted the City of Austin regarding the need for street light repairs, and was working to see that these were made. He also confirmed that he was working to make all of the District's locks consistent and that all noncompliant locks had been removed. The Board then discussed the report which had been received from Horizon Environmental regarding the oil which had been discovered in a well located within the District's park. After discussion, upon motion by Director Martinez and second by Director Gray, the Board voted unanimously to authorize Mr. Foster to proceed to coordinate the remediation at a cost not to exceed \$10,000.

Director Richter then stated that the Board would receive reports from developers' and landowners' representatives. Mr. Nias presented a plat showing a potential District office site, a copy of which is attached as **Exhibit "M"**, noting that the Board had expressed concern regarding access and utilities when office sites had been discussed at the previous Board meeting. He stated that he had looked at alternatives with his client's engineer, and that this site was located on Wells Branch Parkway and utilities were readily available. He added that his client would need to do some filling to make the site usable, and that it might need to have shared parking with the adjacent retail. The Board requested that Ms. Littlefield send Director Campbell a copy of the plat so that he would be aware of what was being considered.

At 7:48 p.m., the Board convened in executive session for purposes permitted by Section 551.076 of the Texas Government Code, in order to discuss security matters. At 8:05 p.m., the Board reconvened in open session, and Director Richter announced that no action had been taken during executive session. The Board then agreed that Director Gray should be the Board's liaison to coordinate on issues relating to the Ceylon Tea wet pond and concerns which had been raised by Mr. Tim Hissam.

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

Date: _____.

(SEAL)

Scott M. Gray, Secretary
Board of Directors