

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

February 24, 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 February 24, 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, thus constituting a quorum. Also present at the meeting were Sam Jones of Sam Jones Consulting, Inc.; Mike Morin of SWWC Services, Inc.; Don Williams, Mona Oliver and Jesse Kennis of Wells Branch Municipal Utility District; Scott Foster of Kimley-Horn and Associates, Inc.; Richard Fadal of TexaScapes, Inc.; Linda Loup of Southwest Securities; Allen Douthitt of Peña Swayze & Co., L.L.P.; Trent Rush of TBG Partners; Jay Howard of Texas Disposal Systems; Deputy Manley of the Travis County Sheriff Department; Brad Sanders of the Wildflower Homeowners' Association 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 approving the consent items on the Board's meeting agenda: the minutes of the January 27, 2009 Board meeting; the Continuing Deposit Security Agreement attached as **Exhibit "B"** and the Pledge Agreement Form 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 stated that the Board would consider taking action regarding the District's \$7,560,000 Unlimited Tax and Revenue Bonds, Series 2009. He recognized Ms. Loup, who presented the updated Schedule of Events attached as **Exhibit "D"** and reviewed it with the Board. She noted that Ms. Allen anticipated that the 2009 bonds would sell in April and close in May. Ms. Loup then presented a comparison of proposals for serving as the paying agent/registrar on the 2009 bonds, and recommended that the Board designate Wells Fargo as the paying agent/registrar for the 2009 bonds, as this was the bank which served as the paying agent/registrar on all of the District's other bond issues. Mr. Douthitt concurred. Upon motion by Director Gray and second by Director Henderson, the Board voted unanimously to utilize Wells Fargo as the paying agent/registrar for the 2009 bonds.

Ms. Loup then presented the Resolution Permitting Financial Advisor to Bid on the District's Unlimited Tax and Revenue Bonds, Series 2009 attached as **Exhibit "E"**. She explained that it was useful to have as many bidders as possible, and recommended that the Board approve the resolution. Director Campbell pointed out that he believed evidence of the fairness of the process was provided by the fact that, in the past, Southwest Securities had bid on the District's bonds, but had not won the bid. Upon motion by Director Richter and second by Director Martinez, the Board voted unanimously to approve the resolution.

Ms. Loup then presented the Resolution Approving Preliminary Official Statement and Authorizing Distribution of Preliminary Official Statement and Publication of a Notice of Sale of Bonds and Payment of the Attorney General Bond Review Fee attached as **Exhibit "F"**. She explained that the latest draft of the Preliminary Official Statement was included in the Board's meeting packet, behind the resolution. Ms. Littlefield noted that, as the bonds would not sell until April, the Board could potentially postpone action on this item if it wished to have more time to review either the substance of the proposed sale or the preliminary official statement. The Board concurred that it was prepared to move forward and, upon motion by Director Gray and second by Director Henderson, voted unanimously to approve the resolution.

Director Campbell stated that that the Board would next consider the engagement of an auditor to prepare the report on reimbursable costs. Ms. Littlefield noted that she had obtained two proposals, one from McCall Gibson and Co., L.L.P. and one from the District's current auditor, Maxwell Locke & Ritter. Director Campbell stated that he felt it was advisable to keep the same auditor on all of the District's work, and the Board agreed. Upon motion by Director Henderson and second by Director Gray, the Board voted unanimously to approve the proposal from Maxwell Locke and Ritter attached as **Exhibit "G"**.

Ms. Loup then distributed the information on current bond interest rates attached as **Exhibit "H"** and reviewed it with the Board. She stated that the cash flow for the 2009 bonds had been run at 7%, which was the worst case scenario and stated that she felt that the District's bond sale would come in at a much lower rate. Director Richter stated that Ms. Allen had told her that the cash flow projections were very conservative and that, after the bond sale, the tax rate could be left at the same level which would still allow for the transfer of \$1,000,000 to the District's park fund each year. Mr. Morin inquired as to the basis for the projected assessed valuation, and Ms. Loup responded that it was based upon projections by the District's developers.

Director Campbell then recognized Mr. Rush and Mr. Foster, for purposes of receiving a report regarding the updated District Park Master Plan, a copy of which is attached as **Exhibit "I"**. Mr. Foster explained that the updated master plan relocated some of the proposed facilities in response to the location of existing park facilities, as well as the location of the City of Austin power line. He noted that the power line had impacted the location of the proposed amenity center, and also explained that additional parking had been included, and that he had also included locations for the basketball court and playscape. He stated that he had worked with Wells Branch Municipal Utility District on the location of proposed workout stations, as well as disk golf, and that plans for future lighting had been included. Mr. Rush added that trash can locations had also been designated, based upon the location of the trail within the park. Mr. Foster advised the Board that they had also expanded the community garden, in order to allow maintenance equipment to go in and out. Director Richter explained that everything that had

been discussed in the past had been accurately located, and that expanded parking had been included because it was thought that this would be needed. She commended Mr. Foster and Mr. Rush for being responsive to the Park Subcommittee and doing what was asked of them promptly. Mr. Morin inquired whether any restrooms were being planned for, and Director Richter responded that no restrooms would be provided until the amenity center was constructed. She also pointed out that information regarding an additional proposal from Kimley-Horn and Associates had been included in the Board's meeting packet, a copy of which is attached as **Exhibit "J"**. She stated that the Park Subcommittee was asking for authorization to add a footprint for the amenity center. Mr. Morin inquired whether any drinking fountains would be provided, and noted that there was no potable water in the park now. Director Richter stated that there was not a plan for drinking fountains at this time. Mr. Morin inquired whether irrigation would be provided, and Director Richter responded that the facilities were in place for soccer field irrigation and that the park master plan identified location for future wells to provide irrigation water. Director Henderson noted that there would be water provided at the dog park and the community garden.

Mr. Foster then reviewed information regarding the additional work to be performed by his company attached as **Exhibit "J"**, and explained that the issue was one of impervious cover. He stated that the creek areas affected the allowable impervious cover, because they were "netted-out" of the gross site area in determining the allowable percentage of impervious cover. He stated that, after netting out the creek areas and calculating all of the impervious cover which was planned, the District would be above the 20% which was allowable without a water quality pond. He stated that he was still looking at alternatives to a structural pond, and then explained the cost-savings that the District would realize if it completed all of its permitting now, rather than doing it in two phases. In response to a question from Director Gray, he indicated that the savings would be approximately \$10,000. Director Richter explained that the District had always anticipated doing all of the work, and that the only issue was the timing of permitting versus actual construction. Mr. Morin inquired whether the District would bid the improvements in pieces, and Director Richter stated that it would bid the facilities as it was ready to construct them. After further discussion, Director Richter moved that the Board approve the updated park master plan and authorize the Park Subcommittee to sign applications for the permits necessary to implement the updated master plan, including a site plan application; approve a supplemental proposal from Kimley-Horn and Associates consistent with **Exhibit "J"** and authorize the Park Subcommittee to execute an amendment to the Kimley-Horn and Associates contract to effect the supplemental proposal at a cost not to exceed \$12,000. Upon second by Director Henderson, the motion was unanimously adopted.

Director Campbell then recognized Deputy Manley, for purposes of receiving the security report. Deputy Manley advised the Board that Deputy Kinnard was still looking at the best times for the deputies to be active within the community, and explained that there had been seven or eight burglaries of residences during the day over the past 30 days. He stated that most of these had occurred in the afternoon, and that three had occurred on weekends. He explained that, in one case, someone had rung the front doorbell and, when the resident had not answered, had gone around to the back and broken in through a glass door. He stated that he and Deputy Kinnard were reading all of the historical reports to determine trends of the burglaries. Director Gray inquired whether these burglaries were concentrated in one area, and Deputy Manley responded that most of them were on the Brookfield side of the District. He added that there had only been one or two burglaries of vehicles in the same time frame, and explained how important

it was that residents keep their vehicles locked and not leave valuable items in plain view. After discussion, the Board asked Mr. Morin to put a notice on the back of the District's utility bills, cautioning the District's residents regarding this issue. Director Campbell stressed that the District wished to respond promptly to the need for additional patrols and, after discussion, Director Gray moved that the Board authorize Director Campbell to increase the patrol hours as necessary due to the increased burglaries. Upon second by Director Martinez, the motion was unanimously adopted.

There being no citizens' communications or Board member announcements, Director Campbell stated that the Board would next receive a report under the Interlocal Agreement with Wells Branch Municipal Utility District. Mr. Williams advised the Board that his crews had done some work on the Meadow Pointe drainage area and Director Richter inquired whether Mr. Jones had inspected the work which had been done. Mr. Jones responded that he had, and felt that it would work without spending a lot of additional money. Mr. Williams then continued his report, noting that his crews had cleaned up trash and debris behind the trailer park and that he was looking at the lighting issue in the area. He stated that, in Stoney Creek Park, the crews had installed mulch and benches, with the exception of those benches that still needed parts. He stated that he had received the parts, and that these would be installed soon. He added that the fitness stations had been assembled and were ready to be installed. Director Campbell stated that the Board appreciated the work which Mr. Williams had done for the District, but felt that there was an on-going communication issue that seemed not to be able to be resolved. He stated that, in response, the District had notified Wells Branch Municipal Utility District that the Board wanted Mr. Kennis to be the point of contact on a going-forward basis and so, from this point forward, the Board members would be communicating through Mr. Kennis. He stated that the Board still appreciated the work that Mr. Williams had done and hoped that he would continue to work with them. At this point, Mr. Williams left the meeting. Ms. Oliver stated that she had nothing to report regarding restrictive covenant matters, but that there had been a few foreclosures which meant that they would have to start over with the new owners on various violations. She stated that there had been increased incidences of vehicles parked on the lawns within the District.

Director Campbell then recognized Mr. Sanders, for purposes of receiving a report regarding Wildflower restrictive covenant matters. Mr. Sanders explained that he would become the contact person for Brookfield, as well as Wildflower, and that this transition was occurring at the current time. Ms. Littlefield encouraged him to contact Deputy Kinnard regarding obtaining additional sheriff's patrols within Brookfield, since that area had an especially high number of burglaries. Mr. Sanders provided Ms. Littlefield with his email address, and she agreed to forward it to Deputy Kinnard. Mr. Sanders indicated that, in Wildflower, not much had changed, but that there were not a lot of new violations.

Director Campbell then recognized Mr. Fadal, for purposes of receiving a report regarding landscape maintenance. Mr. Fadal reported that his crews were on task and on schedule, and that the park areas looked good.

The Board then discussed the City of Austin's request to trim certain trees in the park/electric easement areas. Ms. Littlefield pointed out that the electric easement which the City held over the District's park areas did not specifically call out its authority to trim trees, but that this was generally recognized as a right under the general law. She also pointed out that she

believed the City was more sensitive to the problems caused by tree trimming, since many residents became upset when trees were cut in a “Y” along the power lines in their back yards, which affected their privacy and the appearance of the trees. After discussion, Director Richter moved that the Board authorize the Park Subcommittee to authorize tree trimming in the District’s park and easement area only, while making it clear that the Board could not authorize trimming on any resident’s property. Upon second by Director Martinez, the motion was unanimously adopted.

Director Campbell then stated that the Board would receive a report from the District’s engineer, and recognized Mr. Jones. Mr. Jones advised the Board that the park sidewalk repair was waiting for the final acceptance of the Dessau Fountain improvements. He also explained that the additional KB Home section was on hold until the economy improved. He stated that the MS4 Permit notice had been posted at the Wells Branch Library for 30 days and that the next step was for the Texas Commission on Environmental Quality to review any comments and respond to them. He stated that he did not believe that there had been any comments, but that the District had not yet received a response from the Commission. Mr. Jones also advised the Board that Keystone Construction, the contractor on the Dessau wastewater treatment plant improvements, was waiting for the City of Austin’s final inspection and acceptance, but that the connection to the District’s facilities had been made. He stated that the line had not been accepted because the City was still doing testing. Mr. Morin stated that he had had some concerns regarding the operation of the Low Flow Lift Station, noting that there had been problems with the pumps vibrating and that he had suspected that this was related to the new impellers, but that, when he had reduced the volume in the wet well to inspect the pumps, he had found construction debris in the wet well. He stated that this had occurred twice in one week, and noted that it was expensive to do this type of maintenance. He added that, in order to address his concern regarding the impellers, he had had a meeting on-site with the supplier of the impellers as well as the engineers, and that he felt everything was running properly now. Mr. Jones stated that he was relying on Flygt, the pump manufacturer, which was saying that the debris in the lift station wet well was causing the vibration problem. Director Martinez inquired about the cost to clean up the wet well, and Mr. Morin estimated that it had cost around \$6,000 to do the work. After discussion, the Board directed Mr. Morin and Mr. Jones pursue recovery of the District’s costs from the contractors who had been active in the area of the lift station since it appeared that the debris was construction debris. Mr. Jones and Mr. Morin agreed to do so.

Mr. Jones then explained that the District’s on-channel reservoir permit applications were still being processed. He stated that he had no additional pay estimates to present on the Settler’s Meadow Water Improvements and reported that the waterline had been completed but had not yet been tested. He presented the City of Austin invoice for inspection fees in the amount of \$33,104.58 attached as **Exhibit “K”**, and recommended approval. Upon motion by Director Gray and second by Director Henderson, the Board voted unanimously to approve the payment of the inspection fees.

Mr. Jones then advised the Board that the Settler’s Meadow wastewater line had been completed, and presented Pay Estimate No. 4 and Final attached as **Exhibit “L”**, and recommended approval. He stated that he had received all of the close-out documents, and recommended acceptance of the project for operation and maintenance. Upon motion by Director Martinez and second by Director Henderson, the Board voted unanimously to approve the Pay Estimate and to accept the project for operation and maintenance.

Director Campbell then recognized Mr. Douthitt, for purposes of receiving a report from the District's bookkeeper. Mr. Douthitt distributed the updated cash activity report attached as **Exhibit "M"** and reviewed it with the Board. He stated that the updated report included some additional payment items which had been reviewed by Director Henderson. He added that he had been asked to hold the checks payable to Wells Branch Municipal Utility District for Board discussion, and stated that Mr. Kennis had been advised that these were being held because procedures which the District had put in place had not been followed. He also called the Board's attention to the manager's checks set forth on the cash activity report, and requested that Check No. 3221, a customer refund, be voided. After discussion, Director Henderson moved that the Board approve the payment of the bills and invoices with the exception of Check No. 3221 and the checks payable to Wells Branch Municipal Utility District, which would be voided. Upon second by Director Gray, the motion was unanimously adopted.

Mr. Douthitt then presented the transfer letters attached as **Exhibits "N"** through **"P"**, and recommended approval. Upon motion by Director Henderson and second by Director Richter, the Board voted unanimously to approve the transfer letters. Mr. Douthitt then reviewed his directives from the previous Board meeting, noting that a wire transfer to pay the Settler's Meadow impact fees had been made, and that he had confirmed that the City of Austin was in agreement on the amount of the fees remitted. He noted that he, Mr. Morin and Director Henderson had met on a protocol to expedite deposit refunds to District residents. He explained that there were two alternatives, one of which would include review by the Bills and Invoices Review Committee, and explained that the refunds could be paid by manager's checks if the Board agreed. The Board discussed the fact that, due to SWWC Services procedures, the billing staff was supposed to net out the final bill from the security deposit before a security deposit refund request was processed. Director Campbell noted that the Board would be relying on the accuracy of SWWC's reports and did not intend to be responsible for any losses that might result if those billing reports were in error. Mr. Morin acknowledged this. After discussion, upon motion by Director Henderson and second by Director Gray, the Board voted unanimously to authorize a procedure whereby, upon approval by the Bills and Invoices Review Committee, manager's checks would be written for approved security deposit refunds in order to avoid delays in making refunds to the District's customers. Mr. Douthitt explained that the District might need to increase the amount on deposit in the manager's account in order to allow this process to occur, and the Board agreed that an item should be placed on the next meeting agenda to consider increasing the amount on deposit in the manager's account.

Mr. Douthitt then distributed the investment analysis attached as **Exhibit "Q"**, and reviewed it with the Board.

Director Campbell then recognized Mr. Morin, for purposes of receiving a report from the District's general manager. Mr. Morin stated that the District had experienced a 4.8% water loss. After an inquiry from Director Campbell, Mr. Morin corrected himself, noting that the water loss was actually 7%, which was still acceptable. He then presented the write-offs attached as **Exhibit "R"**, and recommended approval. Upon motion by Director Henderson and second by Director Gray, the Board voted unanimously to approve the write-offs. Mr. Morin stated that, with respect to the District's 90-day receivables, there was one problem account and that that customer was protesting the charges. Mr. Morin stated that he would be in contact with the customer the following day to attempt to resolve the situation. Mr. Morin also advised the Board that Tech Ridge had not paid its account, and that he had discovered that the previous

management company had closed its accounts on January 22, but that the new accounts had not been set up at that time. He stated that the new accounts had now been set up effective as of January 21, and that Tech Ridge had paid a portion of the bills, but had not remitted the correct amount. He stated that he was working on resolving this matter. Mr. Morin requested that the items regarding account applications and confidentiality requirements be deferred to the next meeting, and the Board agreed to do so.

Director Campbell then reported that the T-Mobile proposal for lease of District land for communications tower was on hold, and requested that this item be removed from the agenda. He noted that T-Mobile was stating that it was not economically feasible to pursue this at the present time.

Director Campbell then recognized Ms. Littlefield, for purposes of receiving the attorney's report. Ms. Littlefield reviewed her directives from the previous Board meeting, stated that there were no unresolved violations of the District's erosion control rules. She presented Amendment No. 1 to the Interlocal Agreement Regarding the Provision of Retail Water and Wastewater Service to the Lake at Tech Ridge Development attached as **Exhibit "S"**, and reviewed it with the Board. She explained that this amendment would allow the City of Austin to provide irrigation water only to the Tech Ridge ponds and adjoining area, as previously discussed, and also required that Tech Ridge pay all amounts due to the District. After discussion, the Board agreed that the agreement should not be released until Tech Ridge was current on all amounts due to the District. After further discussion, Director Richter moved that the Board approve Amendment No. 1 to the Interlocal Agreement Regarding the Provision of Retail Water and Wastewater Service to the Lake at Tech Ridge Development, subject to approval by the City of Austin and the Lakes at Tech Ridge being current on all amounts due to the District. Upon second by Director Gray, the motion was unanimously adopted.

Ms. Littlefield then presented the First Extension to the Interlocal Agreement between the District and the City of Austin for solid waste services for the Lakes at Tech Ridge attached as **Exhibit "T"**, and explained that this amendment provided a one-year extension of the existing agreement. She noted that she had requested that the City agree to an amendment which would allow the agreement to extend automatically unless 90 days notice of termination was given, and hoped to be able to bring that back to the Board soon. Upon motion by Director Richter and second by Director Martinez, the Board voted unanimously to approve the First Extension to the Interlocal Agreement.

Ms. Littlefield then presented the Plumbing Inspection Services Agreement attached as **Exhibit "U"**, noting that Mr. Morin had been utilizing Tommy Patterson Quality Inspections for inspection services within the District, but that Mr. Patterson had no contract with the District and that she had determined, in other districts, Mr. Patterson did not hold the appropriate insurance. She recommended that the Board approve the form of the agreement, and authorize Mr. Morin to contract on the District's behalf with the plumbing inspector of his choice, subject to the contractor's providing proof of necessary insurance. Upon motion by Director Richter and second by Director Gray, the Board voted unanimously to do so.

Director Campbell then stated that the Board would consider taking action regarding the Recycling and Solid Waste Disposal Services Agreement with Texas Disposal Systems. Ms. Littlefield noted that she received a revision to the contract from Mr. Howard, but that it was the

Texas Disposal Systems' form, which was not acceptable. She stated that Mr. Howard had now provided her with a list of the revisions to the existing contract which were being requested, and pointed out that there was a substantial increase in the monthly charge, even though the District had only approved an increase to the rate based on the consumer price index in December. Mr. Howard advised the Board that his company's analysis had determined that the District's contract price was below cost, due to substantial increases in landfill costs and cost of fuel. He stated that his company was willing to agree to a price based on a 6% increase or based on increases in the consumer price index over the five-year period, and the Board discussed the fact that the consumer price index had historically been well below 6%. After discussion, upon motion by Director Richter and second by Director Martinez, the Board voted unanimously to approve a six-month extension of the existing contract, with the renewal to be brought back to the Board and to be effective after that six-month period. Mr. Howard stated that this would be acceptable to his company.

There being no developer's reports, the meeting was adjourned.

Date: _____.

(SEAL)

Scott M. Gray, Secretary
Board of Directors