

**MINUTES OF MEETING OF  
THE BOARD OF DIRECTORS OF  
WILBARGER CREEK MUNICIPAL UTILITY DISTRICT NO. 1**

February 4, 2016

THE STATE OF TEXAS                   §  
  §  
COUNTY OF TRAVIS                   §

A meeting of the Board of Directors of Wilbarger Creek Municipal Utility District No. 1 was held on February 4, 2016, at the offices of Armbrust & Brown, PLLC, 100 Congress Avenue, Suite 1300, 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:

|                 |   |                     |
|-----------------|---|---------------------|
| Bill Kochwelp   | - | President           |
| Tim Dalton      | - | Vice President      |
| Scott Sams      | - | Secretary           |
| D. Page Ragland | - | Assistant Secretary |
| Diana Zuniga    | - | Assistant Secretary |

and all of the Directors were present, thus constituting a quorum. Also present at the meeting were Mary Bott of Bott & Douthitt, PLLC, the District's bookkeeper; Dennis Hendrix of Crossroads Utility Services LLC, the District's utility operator; Josh Rambo of McCall Gibson Swedlund Barfoot PLLC, the District's auditor; Crys Sanders of Argent Management, LLC, representing SG Land Holdings LLC, the residential developer in the District; Ken Schroeder of Schroeder Engineering Company, the District's engineer; and John Bartram of Armbrust & Brown, PLLC, the District's general legal counsel.

Director Kochwelp called the meeting to order at 12:02 p.m. and stated that the Board would first receive citizens' communications. There being none, Director Kochwelp then stated that the Board would receive a report from the District's auditor in connection with the audit of the District's financial statements for the fiscal year ended September 30, 2015. Mr. Rambo presented the Audit Report, attached as **Exhibit "B"**, including a summary of (i) the independent auditor's report, which he explained contained a "clean", or what was now referred to as an "unmodified", opinion; (ii) the Management's Discussion and Analysis, which he explained was a summary of District operations prepared by the District's bookkeeper on behalf of District management in compliance with applicable governmental accounting standards; (iii) the basic financial statements and the notes thereto; (iv) the required supplementary information; and (v) the Texas supplementary information. He reviewed the income statement, budget comparison, and comparative schedule of revenues and focused the Board's attention on the alternative full-accrual presentation and developer liabilities. Director Kochwelp asked if the overall level of developer funding had been reduced for the current fiscal year, and Mr. Bartram confirmed that it had. Mr. Rambo then reviewed the Board representation letter attached as **Exhibit "C"**, noting that similar letters would also be signed by the District's bookkeeper and operator. He confirmed that the letter incorporated certain "knowledge" qualifiers which took into account the fact that the Board was relying on the advice of the District's bookkeeper and operator in making the representations set forth in the letter. Mr. Rambo then concluded by requesting the Board to approve the Board representation letter and

the Audit Report and to authorize filing of the District's audit with the Texas Commission on Environmental Quality (the "*TCEQ*"). Upon motion by Director Zuniga and second by Director Ragland, the Board voted unanimously to do so.

Director Kochwelp then stated that the Board would consider approving the following items on the consent agenda: (a) the minutes of the October 1, 2015 Board meeting; and (b) an Amended and Restated Operations Services Agreement with Crossroads Utility Services LLC ("*Crossroads*") attached as **Exhibit "D"**. Mr. Bartram advised that the compensation specified in the renewal operations contract approved by the Board in September was incorrect in that it was based on 2014 rates instead of 2015 rates. He reported that contracts entered into after January 1, 2016 were subject to the requirements of House Bill 1295, which had added Section 2252.908 to the Texas Government Code and required business entities contracting with the District to make certain disclosures regarding interested parties through the Texas Ethics Commission's website before the District could enter into an agreement. He then recommended that the Board amend and restate the contract to correct the scrivener's error, subject to compliance with Section 2252.908. Upon motion by Director Dalton and second by Director Zuniga, the Board voted unanimously to approve the consent items as presented.

Director Kochwelp then stated that the Board would receive a report from the District's utility operator. Mr. Hendrix first reviewed the operations report attached as **Exhibit "E"**. He reported that water usage was down since the prior month but up from the same period in prior years and was still under the take-or-pay contract amount. He noted that some of the data in the take-or-pay tracking chart was inaccurate and that he would work with the bookkeeper to get that corrected. Mr. Hendrix then reported that the bacteriological and chlorine samples were all satisfactory and that water loss had come down to  $\pm 2\%$ , which was very good. He next reported that the wastewater treatment plant was generally running well and that there had been no major problems at the plant. He stated that the installation of the new Rexa valves had been scheduled, that the blowers were in the process of being repaired, that the new concrete work had been completed, that the lift station coating work was being scheduled, and that he was working on the next round of capital improvement project recommendations. Mr. Hendrix next reviewed the latest connection report, noting that there were currently 140 active connections in the District. He then reviewed the billing, adjustments, and delinquent accounts reports and recommended approval of one write-off in the total amount of \$47.95. Upon motion by Director Sams and second by Director Ragland, the Board voted unanimously to approve the write-off. Mr. Hendrix then concluded the operations report by directing the Board's attention to the memorandum attached as **Exhibit "F"** summarizing new chloramines rules adopted by the TCEQ. He stated that the new rules, which were scheduled to take effect on April 1, 2016, would require additional sampling by public water systems as well as the development and implementation of a nitrification action plan and updated utility system maps. Mr. Hendrix advised that the rules were still under review by his company but that he wanted to alert the Board that compliance would require additional work on the operations side. Mr. Bartram pointed out that the heavy rains at the end of October had filled up the new Southwest Detention Pond and that, therefore, the developer would not need to purchase fill water from the districts. He noted that, although the issue was now moot, the wholesale provider had agreed to sell fill water outside of the take-or-pay requirement on a one-time basis and that, if this situation ever arose again, a similar arrangement might be reached.

Director Kochwelp then stated that the Board would receive a report from the District's bookkeeper. Ms. Bott first reviewed the bookkeeper's report attached as **Exhibit "G"**, including the bills, invoices, and transfers set forth on the updated cash activity report, and recommended approval. She noted that there were four transfers for approval. She next reviewed the tax collection report and the District's latest financial statements. She stated that

approximately 94% of the District's 2015 tax levy had been collected and that the District was currently ±\$22,000 ahead of plan. After discussion, upon motion by Director Dalton and second by Director Ragland, the Board voted unanimously to approve the bills, invoices, and transfers as presented. Ms. Bott then concluded by presenting the American Institute of Certified Public Accountants ("AICPA") engagement letter for the compilation of financial statements attached as **Exhibit "H"**, which she stated was now required by the professional standards applicable to certified public accountants for fiscal years ending after December 31, 2015. She explained that the engagement letter detailed her firm's obligations with respect to financial statements as a CPA firm as well as the Board's obligations as management, some of which the Board had engaged her firm to handle as the bookkeeper. She confirmed that she had completed the House Bill 1295 process and would deliver the certificate of interested parties to Mr. Bartram after the meeting. After discussion, upon motion by Director Zuniga and second by Director Sams, the Board voted unanimously to approve the AICPA engagement with Bott & Douthitt, PLLC.

Director Kochwelp next announced that the Board would receive reports from the developers. Ms. Sanders stated that Mr. Allison was in Hawaii this week and that she would provide the development report in his absence. She reported that Section 14B-1 and the Southwest Detention Pond were substantially complete, that a walk-through with City staff had been conducted the previous week, and that her company was in the process of working on the punchlist items for these projects. She next reported that Sections 14B-2 and 19A were under construction and that Section 16 was expected to go out for bids in late February. She indicated that Scott Felder Homes and Perry Homes were splitting the lots in Sections 14B-1 and 14B-2 and that Scott Felder Homes was sole builder in Section 19A. Ms. Sanders also noted that Dreamfinders Homes had contracted to purchase the remaining lots in Sections 12 and 13 but was still under feasibility. She stated that construction of Shelby's Way and Misti Glen was projected to commence around August 1<sup>st</sup> and then concluded by noting that a convenience store was going in at the intersection of FM 973 and ShadowGlen Trace and that the new Starbucks was opening in mid-February. Director Zuniga observed that it was great to finally see activity in the development again, and the other Board members concurred.

Director Kochwelp then stated that the Board would receive a report from the District's engineer. Mr. Schroeder directed the Board's attention to the engineering report attached as **Exhibit "I"** and presented and recommended approval of the following pay estimates, copies of which are attached collectively as **Exhibit "J"**: (i) pay estimate nos. 1 (in the amount of \$12,978) and 2 (in the amount of \$29,970) for the ShadowGlen Trace Commercial project, representing 19% completion and work through December; and (ii) pay estimate nos. 1 (in the amount of \$52,710.51), 2 (in the amount of \$41,301.03), and 3 (in the amount of \$367,357.82) for the ShadowGlen Phase 2, Section 19A project, representing 67% completion and work through January. With respect to District matters, he stated that the Crossroads Utility Services invoice was in order and within budget. He then addressed items related to the Master District, noting that the daily wastewater flows at the wastewater treatment plant for the month of December had averaged ±195,000 gpd, with a maximum day of ±310,000 gpd, which were generally within the expected range of flows based on the current number of connections and back to normal after the heavy rains at the end of October. Mr. Schroeder then concluded by reporting that Master District repairs and maintenance were generally within budget, that all invoices were in order, and that the average energy reduction at the wastewater treatment plant over the last three Decembers was 33%. After discussion, upon motion by Director Ragland and second by Director Zuniga, the Board voted unanimously to approve the pay estimates.

Director Kochwelp next announced that the Board would receive a report from the District's financial advisor. Mr. Bartram advised that Ms. Allen had been unable to attend the

meeting but continued to work with the developer on opportunities for the ShadowGlen districts to assist the developer in expediting construction of a bridge across Wilbarger Creek connecting the existing development in the District and Travis County MUD No. 2 to the undeveloped land in Wilbarger Creek MUD No. 2.

Director Kochwelp then recognized Mr. Bartram for purposes of receiving a report from the District's attorney. Mr. Bartram first reviewed the email from the Texas Water Foundation, attached as **Exhibit "K"**, regarding SWIFT funding for water conservation. He then reviewed the outstanding consultant directives, noting that most were complete or in process. He stated that Mr. Burnett had completed the transfer of the developer's residual interest in the director lot to SG Land Holdings but had not paid the delinquent taxes. He stated that he would follow up with Mr. Allison regarding payment. He next reviewed the memorandum attached as **Exhibit "L"** summarizing new reporting requirements on eminent domain authority that had been passed during the 2015 legislative session. He confirmed that the first annual filing had been made prior to the February 1 deadline, and he recommended that the Board ratify the filing. Upon motion by Director Zuniga and second by Director Ragland, the Board voted unanimously to do so. Mr. Bartram next reviewed the memoranda attached collectively as **Exhibit "M"**, summarizing certain bills affecting water districts that passed during the 84<sup>th</sup> legislative session, including House Bill 1295 (requiring disclosure of interested parties) and House Bill 23 (addressing changes to conflict of interest disclosure obligations). He highlighted the changes in conflict of interest disclosure requirements under Chapter 176 of the Texas Local Government Code implemented by House Bill 23 and directed the Board's attention to the supplemental analysis attached as **Exhibit "N"**, which he stated the Directors could use as a condensed checklist to determine if disclosure requirements were triggered.

Director Kochwelp next announced that the Board would consider the Master District and Advisory Committee items on the agenda. Mr. Bartram directed the Board's attention to the agendas and minutes from the most recent joint meetings of the Board of Directors of Wilbarger Creek Municipal Utility District No. 2 and the Advisory Committee, which was a recurring agenda item so that the Board could stay informed of the activities of the Master District and Advisory Committee.

Director Kochwelp then stated that the Board would consider its future meeting schedule and agenda items. After discussion, the Board agreed to adhere generally to an every-other-month meeting schedule, with the understanding that meetings would be cancelled as appropriate.

Director Kochwelp then asked if there was any further business to come before the Board. There being none, the meeting was adjourned at 12:43 p.m.

*(Signature page follows.)*

(SEAL)



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Scott Sams, Secretary  
Board of Directors

Date: April 7, 2016