

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

August 2, 2012

THE STATE OF TEXAS §
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COUNTY OF TRAVIS §

A meeting of the Board of Directors of Wilbarger Creek Municipal Utility District No. 1 was held on August 2, 2012, 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 except Director Dalton, thus constituting a quorum. Also present at the meeting were Mary Bott and Courtney Crews of Bott & Douthitt, PLLC; Margret Wingrove of Crossroads Utility Services LLC; Ken Schroeder of Schroeder Engineering Company; Danny Burnett of 2010 ShadowGlen, LLC and Cottonwood Holdings, Ltd.; Jay Joyce of Expergy; Cheryl Allen of Southwest Securities; Chris Swedlund of McCall Gibson Swedlund Barfoot PLLC; and John Bartram of Armbrust & Brown, PLLC.

Director Kochwelp called the meeting to order at 12:03 p.m., and stated that the Board would first receive citizens' communications. There being none, Director Kochwelp then stated that the Board would consider approving the minutes of the July 10, 2012 Board meeting. Upon motion by Director Zuniga and second by Director Sams, the minutes were unanimously approved.

Director Kochwelp next announced that the Board would consider a proposal from McCall Gibson Swedlund Barfoot PLLC for the audit of the District's financial statements for the fiscal year ending September 30, 2012. Mr. Bartram introduced Mr. Swedlund, who reviewed his firm's proposal for the audit of the District's financial statements for the current fiscal year, a copy of which is attached as **Exhibit "B"**. He noted that the proposed fee for the audit was between \$9,000 and \$10,500, which was the same fee range as last year. Mr. Swedlund also directed the Board's attention to the fraud questionnaire attached as **Exhibit "C"**, which he stated was provided under Statement on Auditing Standard No. 99 as

part of the auditor's audit planning process to document material misstatements caused by fraud. He asked anyone with questions or concerns to contact his office. After discussion, upon motion by Director Zuniga and second by Director Sams, the Board voted unanimously to engage McCall Gibson Swedlund Barfoot PLLC for the audit of the District's financial statements for the fiscal year ending September 30, 2012.

Director Kochwelp then stated that the Board would consider taking action regarding retail utility rates. Mr. Bartram first presented the invoice from Metro H2O, Ltd. attached as Exhibit "D", advising the Master District of a volumetric surcharge passing through to the Districts an increase in its water costs from Blue Water. Mr. Bartram then introduced Jay Joyce of Expergy for a report on the status of the retail rate study. Mr. Joyce reviewed the materials attached as Exhibit "E" and focused on the cost of service schedules, which he noted were broken into three sections: schedules for the District, schedules for the Master District, and schedules for all of the Participant Districts together. He explained that the data were preliminary and that he would update all of the numbers based on the budget for the 2013 fiscal year and year-to-date projections on revenues to determine what, if any, changes were necessary in the District's rate structure. Mr. Joyce reviewed the allocation of Master District expenses to water and wastewater and projected adjustments to expenditures for the current fiscal year. He also reviewed an allocation of the budget to the functions of water, wastewater, garbage, and drainage as well as a calculation of total revenue requirements for the District. Ms. Allen pointed out that garbage costs were a pass-through. Mr. Joyce indicated that he would update his schedules accordingly. He next reviewed a calculation of net revenue requirements to illustrate where the District was over or under recovering using the current rates. He noted that setting rates involved balancing property taxes, utility rates, and developer advances.

Mr. Joyce then addressed rate design recommendations. He first suggested that the base fee be decoupled to reflect a separate solid waste component. Mr. Bartram explained that solid waste expenses had been included in the base fee for sales tax purposes. Mr. Joyce next suggested that the base fee itself be increased. He explained that the current block system caused revenues to be volatile between wet and dry years. Mr. Joyce further suggested that the breakpoint for the block/tier rates be changed and flattened somewhat. He next reviewed a comparison of usage with and without the HOA and noted that the HOA water discount had resulted in approximately \$8,600 in lost revenues. Mr. Burnett stated that he understood the effect that the HOA's usage was having on the District and that eliminating the HOA discount would be acceptable. Ms. Allen noted that eliminating the HOA discount would decrease the amount of developer funding required. Mr. Burnett concurred and stated that he would work to transition the HOA to the District's fiscal year to facilitate the budgeting process. Ms. Allen stated that the overall water usage information was very helpful. Mr. Bartram pointed out that it also demonstrated that increasing the higher usage tiers has a minimal impact on revenues.

Mr. Joyce then reviewed the primary goals of his rate study, which he indicated were to establish defensible rates, provide financial stability and security, and make the rate structure easily understood. He also addressed the timing of any rate changes, noting that the best time

to make any changes was after the hot Summer months as customers were transitioning into period of lower water usage. Mr. Joyce elaborated on how rates could affect water conservation, and he noted that the current wastewater rate of \$4.50 per 1,000 gallons was way too low. He then reviewed his suggestions for the next steps in the rate study process. He stated that he would first need to update his schedules based on the Participant Districts' budgets for the 2013 fiscal year, current reserve requirements, the 2012 tax rate, developer contributions, and projected usage. Ms. Allen stated that she and Ms. Bott would coordinate with Mr. Joyce for interim details to facilitate the budget process. Mr. Joyce recommended that, after the budget and tax rate were set in September, the Board then consider adjustments to the District's retail rates, which would take effect in October with the new fiscal year. Ms. Bott suggested that Mr. Joyce also provide scenarios showing what retail rates would have to be without property tax revenues and developer contributions. Mr. Joyce stated that he would provide this information, noting that the District's expenses actually justified a much higher rate structure than what was currently in place. Director Kochwelp stated that, while higher rates might be justified, the big picture goal was to have rates that were competitive with other similarly situated communities in the Manor area because, otherwise, there would be no development or home sales. The Board generally concurred. Ms. Allen requested that Mr. Joyce also provide information on the cost of recent rate appeals that he was involved with so that the Board could get an understanding of how expensive the process was, the cost of which would ultimately be borne by the residents.

Director Kochwelp then stated that the Board would consider taking action regarding budget and tax items. Mr. Bartram first presented and reviewed with the Board the memorandum attached as Exhibit "F", summarizing the schedule and process for adopting a budget and setting a tax rate. Ms. Allen then reviewed the 2012 certified appraised value for the District attached as Exhibit "G". She stated that she was working with the developer to provide the appraisal district with the most up-to-date sales information so that this data could be factored into to the overall value. Ms. Bott then reviewed the draft budget for the 2012-2013 fiscal year attached as Exhibit "H", which she noted was supported by approximately \$140,000 in developer funding and based on the assumption that there would be no new connections and that the current rates would remain in effect. Ms. Bott also reviewed the draft Master District budget for the 2012-2013 fiscal year attached as Exhibit "I". Ms. Allen next reviewed the tax rate analysis attached as Exhibit "J" and recommended that the District establish a total proposed tax rate for 2012 of \$0.95, comprised of a \$0.35 contract tax and a \$0.60 operations and maintenance tax, which she noted was the same total tax rate as the prior year. Director Kochwelp questioned what, if anything, the Board was required to accomplish with respect to the budget and tax rate at this time. Mr. Bartram advised that the Board needed to do three things at this meeting: (i) establish a proposed 2012 tax rate by record vote; (ii) schedule a public hearing at which the adoption of the 2012 tax rate would be considered; and (iii) authorize notice of the public hearing on the 2012 tax rate to be published in the newspaper. After discussion, upon motion by Director Zuniga and second by Director Ragland, the Board voted to (i) establish a proposed 2012 tax rate of \$0.95 per \$100 valuation; (ii) schedule a public hearing at noon on Thursday, September 6, 2012 to consider the adoption of the tax rate; and (iii) authorize a notice of the public hearing to be published in the newspaper, with Directors

Kochwelp, Zuniga, Sams, and Ragland all voting "aye". Director Dalton was not present at the meeting for the vote.

Director Kochwelp then stated that the Board would receive a report from the District's utility operator. Ms. Wingrove reviewed the utility report for the month of June. She stated that water usage was up from May, but was the lowest usage during the month of June since 2007. She confirmed that bacteriological and chlorine samples were satisfactory. She next addressed water loss, noting that there had been a significant leak in Cottonwood Creek MUD No. 1, which had caused overall water loss to rise to approximately 5.7% for the month. She stated that the leak had been repaired after losing about 695,000 gallons of water. Mr. Schroeder indicated that this equated to approximately \$3,500. Ms. Wingrove next reviewed the wastewater report and noted that the plant was in compliance and that there had been no excursions. She next reviewed the connection report for the District and the other Participant Districts, noting that there had been 48 new connections in the District through June, which exceeded by far the annual budget of six. Ms. Wingrove then reviewed the District's billing reports and delinquent accounts. She stated that there were no write-offs to present this month. She then concluded by reviewing a design schematic and proposal for a bulletin board that could be used to post agendas. She noted that the cost was \$409 plus installation. Mr. Burnett offered to have his staff complete the installation at no cost to the District. After discussion, upon motion by Director Zuniga and second by Director Ragland, the Board voted unanimously to authorize the purchase of the bulletin board, with the understanding that Mr. Burnett would complete the installation work. Director Kochwelp noted that the Districts were selling less water than they were purchasing, and he asked if the excess could be sold. Mr. Bartram stated that the short answer was "yes", but that there were several other complicating factors, such as the fact that there were no existing connections to any other users. Ms. Bott noted that the amount of "excess" water was relatively low and within the budgeted amount for water loss. Ms. Allen stated that it was normal for water utilities to have and pay for more capacity than they actually needed at any given time. Mr. Bartram added that there was also a potential public relations concern of selling the water to a non-resident customer for less than what the District's own residents are charged.

Director Kochwelp then stated that the Board would receive a report from the District's bookkeeper. Ms. Bott first reviewed the bills, invoices, and transfers set forth on the revised action items and cash activity report attached as Exhibit "K" and recommended approval with the exception of Director Dalton's fee of office, which would be voided due to his absence. She then reviewed the quarterly investment report and the latest tax collection report, noting that 99% of this year's taxes had been collected. She next reviewed the budget comparison and the financial statements as of June 30, 2012, including the balance sheet, statement of revenues, and supplementary information for the District's general fund and special revenue fund. She stated that the District currently had a positive budget variance of about \$114,000, primarily due to the number of new connections. Mr. Schroeder confirmed that he had reviewed the invoice from Lomas Dirt & Excavation for the additional bull rock erosion control work and recommended approval. After discussion, upon motion by Director Ragland and second by Director Sams, the Board voted unanimously to approve the bills, invoices, and transfers as presented.

Director Kochwelp next recognized Mr. Burnett for a report from the developer. Mr. Burnett stated that the good news was that he was selling more lots and that the builders were selling more homes. However, he noted that this increased activity had depleted his surplus lot inventory. He stated that the partnership had been reluctant to begin development of additional sections in light of the possible sale of the project, but had recently reconsidered and had authorized him to commence development of a new section of lots. Mr. Burnett stated that it would take about 90 days to complete the engineering work and another 90 to 120 days to complete the actual construction, meaning that there would likely be no new lots on the ground until April 2013. Mr. Burnett next presented checks to Ms. Bott catching the developer up on all outstanding legal invoices, which he noted would facilitate execution of the new Manor development agreement. He reported that the SunCal transaction was still proceeding. He stated that the contract was expected to be signed in September with a closing by the end of the year. He stated that SunCal was expecting to succeed to the 2010 ShadowGlen's reimbursement rights and asked the Board to consider consentING to an assignment of the District's reimbursement agreement with the developer. Mr. Bartram recommended that the new reimbursement agreement with 2010 ShadowGlen, LLC be finalized first and then the Board could consider the timing of a consent to the assignment of that agreement from 2010 ShadowGlen to SunCal. The Board concurred. Director Kochwelp indicated that he did not anticipate any problem with the consent to assignment.

There being no further report from the District's financial advisor, Director Kochwelp then recognized Mr. Schroeder for purposes of receiving a report from the District's engineer. Mr. Schroeder reviewed the report attached as Exhibit "L". With respect to District matters, he stated that he had reviewed Crossroads Utility Services' invoice and that everything was in order. Mr. Schroeder then addressed items related to the Master District. He reported that the daily wastewater flows at the wastewater treatment plant for the month of June had averaged $\pm 134,000$ gpd, with a maximum day of $\pm 203,000$ gpd, which he stated were within the expected range of flows based on the current number of connections. He noted that the flows had peaked during recent rain events but had come down quickly, indicating an improvement with inflow and infiltration issues. Mr. Schroeder confirmed that all tests were satisfactory and that the Master District's operational expenses were within budget. He next reviewed the status of the approved wastewater treatment plant repairs and stated that there had been no material changes since the previous meeting. However, he did note that a permeate actuator valve had been replaced. Mr. Schroeder then concluded by reporting on the status of the Ovivo proposals. He stated that Mr. Bartram and Mr. Synatschk were finalizing contract templates for the proposals and that the goal was to have final drafts ready for approval in September to take effect in October to coincide with the start of the new fiscal year.

Director Kochwelp then recognized Mr. Bartram for purposes of receiving a report from the District's attorney. Mr. Bartram first reviewed the consultant directives. He then addressed website matters and encouraged anyone with suggestions on the website to forward those to him or Mr. Burnett.

Director Kochwelp then stated that the Board would receive a report regarding Master District and Advisory Committee items. Mr. Bartram first reviewed the agenda and draft minutes from the July 2, 2012 joint meeting of the Board of Directors of Wilbarger Creek Municipal Utility District No. 2 and 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. Mr. Bartram reminded the Board that the next meeting would be on September 6th.

Director Kochwelp then asked if there was any further business to come before the Board. There being none, the meeting was adjourned at 1:24 p.m.

(Signature page follows.)

(SEAL)



A handwritten signature in black ink, appearing to read "Scott Sams", is written over a horizontal line.

Scott Sams, Secretary
Board of Directors

Date: September 6, 2012