

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

September 5, 2013

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 September 5, 2013, 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 Directors Dalton and Zuniga, thus constituting a quorum. Also present at the meeting were Lisa Wald of Bott & Douthitt, PLLC; Andrew Hunt of Crossroads Utility Services LLC; Ken Schroeder of Schroeder Engineering Company; Danny Burnett representing Cottonwood Holdings, Ltd. and 2010 ShadowGlen, LLC; and John Bartram of Armbrust & Brown, PLLC.

Director Kochwelp called the meeting to order at 12:00 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 August 1, 2013 Board meeting. Upon motion by Director Sams and second by Director Ragland, the Board voted unanimously to approve the minutes.

Director Kochwelp then stated that the Board would consider a renewed Plumbing Inspection Services Agreement with Dan McDowell d/b/a Able Restoration Services. Mr. Bartram noted that current agreement was scheduled to expire at the end of October. He stated that Mr. McDowell was proposing to renew for another year with an increase in compensation from \$40 per inspection to \$50 per inspection. Mr. Hunt stated that the \$50 per inspection fee was still at or below most other competitors and that he was pleased with Mr. McDowell's service. After discussion, upon motion by Director Ragland and second by Director Sams, the Board voted unanimously to approve renewed Plumbing Inspection Services Agreement with Dan McDowell d/b/a Able Restoration Services attached as **Exhibit "B"**. Mr. Hunt

recommended that the District's rate order be included on the Board's next meeting agenda in order to update the plumbing inspection fees charged by the District to customers if necessary. The Board concurred.

Director Kochwelp next announced that the Board would consider the budget and tax items on the agenda and conduct a public hearing on the District's 2013 tax rate. He opened the public hearing and inquired whether there was anyone present wishing to address the Board regarding the District's tax rate. There being no public comment on the tax rate, Director Ragland moved to close the public hearing. Upon second by Director Sams, the public hearing was closed.

Director Kochwelp then stated that the Board would receive a presentation of the Master District's budget for the 2013-2014 fiscal year. Ms. Wald reviewed the Resolution Adopting Master District Budget attached as Exhibit "C", which she noted had been adopted earlier in the week and was being presented in accordance with the Master District Contract. She noted that the District's share of the Master District charges was budgeted at \$235,623.

Director Kochwelp then stated that the Board would review the budgets for the joint facilities managed by Travis County Municipal Utility District No. 2 ("TCMUD#2") under Joint Facilities Agreements with one or more of the other Participant Districts. Ms. Wald presented the Joint Facilities Budget for the 2013-2014 Fiscal Year for the Southeast Detention Pond, ShadowGlen Trace Boulevard Water, Wastewater, and Drainage Improvements, and the Wilbarger Creek Wastewater Interceptor, a copy of which is attached as Exhibit "D". She noted that \$10,000 was budgeted for maintenance of the Southeast Detention Pond but that no expenses were anticipated for the other two joint facilities projects during the year. She stated that the District's share of the expenses for the Southeast Detention Pond was projected to be \$6,700. Mr. Burnett noted that the developer was most likely going to be required to re-establish the capacity of the pond in connection with future development. He stated that this might save the Districts some money, and he recommended that any maintenance proposed by the Districts be coordinated with Mr. Allison ahead of time.

Director Kochwelp then stated that the Board would discuss and consider adopting a budget for the District's 2013-2014 fiscal year. Ms. Wald presented and reviewed the draft budget attached as Exhibit "E", which she explained was substantially the same as the draft budget reviewed at the August meeting and was based on a \$0.9484 tax rate, no new connections during the year, and \$137,750 in developer funding. She noted that the budget projected a ±\$31,000 surplus at year end. The Board discussed the lack of an active building program in the District and how this affected the budget and the amount of developer funding required. After further discussion, Director Sams moved that the Board approve the Resolution Adopting Budget attached as Exhibit "F". Director Ragland seconded the motion, which then passed unanimously.

Mr. Bartram then presented the Developer Funding Agreement with SG Land Holdings LLC for the 2013-2014 fiscal year, a copy of which is attached as Exhibit "G", which he stated would provide for quarterly payment of the developer's budgeted deficit funding obligations.

After discussion, upon motion by Director Sams and second by Director Ragland, the Board voted unanimously to approve the Developer Funding Agreement. Mr. Bartram stated that he would forward the approved agreement to Mr. Allison to process for execution by the developer.

Director Kochwelp stated that the Board would next consider establishing the District's 2013 tax rate. Mr. Bartram directed the Board's attention to the tax rate analysis from the District's financial advisor attached as Exhibit "H", including a comparison of historical valuations and tax rates and a projection of income and expenses for the District's general fund. He noted that Ms. Allen was recommending that, as reflected in the budget just adopted, the District establish a total tax rate for 2013 of \$0.9484, comprised of a \$0.38 contract tax and a \$0.5684 operations and maintenance tax. Mr. Bartram further noted that Ms. Allen had advised the Master District board and the TCMUD#2 board earlier in the week that, if there was no new home construction within the Districts during the 2013-2014 fiscal year, the contract tax would likely need to increase to \$0.39 next year. After discussion, upon motion by Director Ragland and second by Director Sams, the Board voted unanimously to adopt a tax rate of \$0.9484, allocated as recommended by Ms. Allen, and to adopt the Order Levying Taxes attached as Exhibit "I", with Directors Kochwelp, Sams, and Ragland present and voting "aye". Directors Dalton and Zuniga were not present at the meeting and did not vote.

Director Kochwelp stated that the Board would next consider approving an Amended and Restated Information Form. Mr. Bartram explained that the form needed to be updated to reflect the change in the District's tax rate. Upon motion by Director Sams and second by Director Ragland, the Board voted unanimously to approve the Amended and Restated Information Form attached as Exhibit "J".

Director Kochwelp then stated that the Board would receive a report from the District's utility operator. Mr. Hunt directed the Board's attention to the utility report attached as Exhibit "K". He reviewed his prior directives and confirmed that all of the fire hydrants in the District had been painted. Mr. Burnett stated that the freshly painted hydrants looked great. Mr. Hunt next reviewed the water report and noted that usage was up. He confirmed that the bacteriological and chlorine samples were satisfactory. He next addressed water accountability, noting that water loss appeared to be stabilizing. He stated that he had a couple of larger water meters to recalibrate and that water loss would be re-evaluated after the recalibrations prior to any further leak detection, noting that he was trying to find what was known in the industry as an "economic leakage balance", where the cost to investigate leaks did not exceed the amount of lost water. Mr. Hunt next reported that he had received a complaint from a resident about overgrowth in one of the District's drainage easements. He stated that, in the interest of time, he had asked the HOA to mow the area in question and invoice the District. Mr. Hunt next reviewed the wastewater report and confirmed that the wastewater treatment plant was in compliance and that there had been no excursions. He then reviewed the connection, billing, adjustments, and delinquent accounts reports and recommended approval of one write-off. Mr. Hunt next directed the Board's attention to the wholesale water purchase schedule attached as Exhibit "L" reflecting the historical amount of wholesale water purchased from Metro H2O,

Ltd. ("Metro"). He stated that the amount of usage was still trending under the benchmark take-or-pay amount. Mr. Hunt then concluded his report by noting that his company's agreement with the District was scheduled to expire at the end of November. He stated that, largely due to increased operations costs, insurance expenses, and retention of qualified personnel, Crossroads Utility Services would be requesting a $\pm 10\%$ increase in compensation. Mr. Hunt indicated that he had begun to work with Mr. Bartram on the new contract and stated that additional information regarding the requested adjustments would be presented at the October Board meeting. After discussion, upon motion by Director Sams and second by Director Ragland, the Board voted unanimously to approve the write-off, as recommended.

Director Kochwelp then stated that the Board would receive a report from the District's bookkeeper. Ms. Wald first reviewed the bookkeeper's report attached as **Exhibit "M"**, including the bills, invoices, and transfers set forth on the cash activity report, and recommended approval with the exception of the checks for the fees of office for Directors Dalton and Zuniga, which would be voided due to their absence. Ms. Wald next reviewed the cash/investment activity report, the tax collection report, the District's financial statements as of July 31, 2013, and the supplementary information, including the budget comparison. She stated that the District was currently running about a \$23,000 negative budget variance, primarily because actual tap connections were behind budget. 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 stated that the Board would next receive a report from the developers and recognized Mr. Burnett. Mr. Burnett stated that Mr. Allison had been unable to attend the meeting and that he would give a brief update on the status of residential development. He reported that SG Land Holdings intended to hold on to its inventory lots until the prices increased to match its pro formas. He stated that, in the meantime, SG Land Holdings was planning to roll-out $\pm \$2$ million in landscaping enhancements that would be phased in throughout the development to refresh the plant scheme with more of a hill country theme and drought-tolerant plants and to increase the value of residential lots. He next reported on the status of the Lexington Boulevard project. He stated that phase 1 of the project was under construction and was expected to be complete within the next 30 days. He stated that the design for phase 2 of the project, which included the low water crossing, had been submitted to the City of Manor but that the City's engineer has surprised everyone with the requirement that the developer construct an emergency water interconnect to the Districts as part of this project. He admitted that an emergency interconnect made sense conceptually from an engineering perspective but pointed out that this requirement had not been anticipated and was expected to cost $\pm \$137,000$. He also noted that ancillary issues, such as reimbursement, City participation, and the requirements under the wholesale water contract with Metro had not been fully considered by the City. Mr. Burnett stated that SG Land Holdings was prepared to construct the interconnect provided that the cost could be reimbursed by the Districts and had requested the City to submit a formal request to that effect. He noted, however, that the City might be reluctant to do so because it might open the door to an argument that the City should share in the cost of the interconnect. Mr. Schroeder then provided additional background on

the City's requirement for the interconnect. He agreed that it made sense in theory but that it may not be justifiable in terms of cost. He also noted that, although interconnects were generally reimbursable, the Texas Commission on Environmental Quality often required that the costs be split between the utilities served by the interconnect and that there was no guaranty that the Districts would be able to reimburse the developer for all of the costs. Mr. Bartram stated that the interconnect would also need to be vetted under the wholesale water contract with Metro and other project agreements, such as the water facilities cost sharing agreement, before any District could commit to reimbursement. Discussion ensued, and Mr. Bartram noted that the boards of directors of both the Master District and TCMUD#2 had taken the position that the developer should exhaust its legal remedies with the City with respect to the requirement for an emergency interconnect before seeking reimbursement for an expense that the Districts were not requiring. Mr. Burnett stated that SG Land Holdings planned to convey this message back to the City of Manor. He then reported on commercial development in the area. He stated that Wal-Mart was under construction, that there had been a ground-breaking ceremony for the medical office complex in TCMUD#2 the previous week, that McDonald's was under construction, that O'Reilly's Autoparts was under contract, that he was working on contracts with Walgreen's and Shipley's Donuts, and that construction of the new elementary school in ShadowGlen was scheduled to start in January 2014, be complete by January 2015, and open in August 2015. Director Kochwelp asked if there were any updates regarding development of the Butler tract. Mr. Burnett reported that a Coors beer distributorship was planned for the site and that restrictive covenants that included a buffer zone adjacent to ShadowGlen had been negotiated in May.

Director Kochwelp stated that the Board would next receive a report from the District's financial advisor. Mr. Bartram directed the Board's attention to the latest foreclosure report attached as **Exhibit "N"** and noted that there had been no foreclosures in the District this year.

Director Kochwelp then stated that the Board would receive a report from the District's engineer. Mr. Schroeder first reviewed the engineering report attached as **Exhibit "O"**. With respect to District matters, he stated that the Crossroads Utility Services invoice was in order and within budget. Mr. Schroeder then addressed items related to the Master District, noting that the daily wastewater flows at the wastewater treatment plant for the month of July had averaged $\pm 138,000$ gpd, with a maximum day of $\pm 218,000$ gpd, which he stated were within the expected range of flows based on the current number of connections. Mr. Schroeder next reported that Master District repairs and maintenance were back within budget and all invoices were in order. However, he did note that sludge-hauling expenses were higher due to the membrane equipment upgrades in process at the plant. He then updated the Board on recent activity at the wastewater treatment plant, noting that Ovivo USA, LLC ("Ovivo") had connected to the plant's SCADA system for remote monitoring purposes. He reported that four of the five blowers at the plant were now operational but that there had been some recent problems with the cooling fans, one of which had caught fire. He stated that Crossroads Utility Services was coordinating with Kaeser, the manufacturer, to correct the problem. Mr. Schroeder next reported that the auto-dialer modifications were complete and that Ovivo had completed the membrane equipment upgrades to MBR No. 2. He stated that, during this

process, on 76 membranes were replaced as compared to over 600 membranes in MBR No. 1. Mr. Schroeder indicated that, after the plant stabilized, Ovivo planned to begin the performance testing for energy savings. He next reported that the initial term of Ovivo's membrane maintenance and replacement contract was scheduled to expire at the end of September and that, per its terms, the contract would renew for another year. He stated that Ovivo was happy with the renewal and was excited about seeing the results of the performance upgrades. Mr. Schroeder then concluded his report by directing the Board's attention to the memorandum attached as **Exhibit "P"**. He stated that his compensation had been in effect since 2002 and that he was requesting that his hourly rate be increased from \$120 per hour to \$150 per hour. After discussion, upon motion by Director Ragland and second by Director Sams, the Board voted unanimously to approve the compensation adjustment. Mr. Schroeder stated that he had enjoyed working for the District and thanked the Board for its consideration.

Director Kochwelp then recognized Mr. Bartram for purposes of receiving a report from the District's attorney. Mr. Bartram reviewed the previous consultant directives, noting that there was none outstanding. He stated that Mr. Hunt had already covered the renewal of the District's operations services agreement with Crossroads Utility Services and that he had nothing further to report at this time.

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 agenda and minutes from the most recent joint meeting 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. The Board confirmed that it would meet in October and then go back to an every-other-month meeting schedule in order to reduce expenses.

Director Kochwelp then asked if there was any further business to come before the Board. There being none, the meeting was adjourned at 12:40 p.m.

(Signature page follows.)

(SEAL)



Scott Sams, Secretary
Board of Directors

Date: October 3, 2013