

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

September 6, 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 September 6, 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, thus constituting a quorum. Also present at the meeting were Mary Bott of Bott & Douthitt, PLLC; Margret Wingrove of Crossroads Utility Services LLC; Danny Burnett of 2010 ShadowGlen, LLC and Cottonwood Holdings, Ltd.; Jay Joyce of Expergy; Cheryl Allen of Southwest Securities; 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 2, 2012 Board meeting. Upon motion by Director Sams and second by Director Ragland, the minutes were unanimously approved.

Director Kochwelp then stated that the Board would consider approving a Memorandum of Agreement regarding the new Development Agreement for the ShadowGlen Subdivision. Mr. Bartram reported that the new Development Agreement had recently been finalized and executed by all parties. He stated that the Development Agreement contemplated that a memorandum giving public notice of the agreement would be recorded in the official public records after execution. He presented and reviewed the Memorandum of Agreement attached as **Exhibit "B"**, and recommended approval, noting that the form of Memorandum was attached as an exhibit to the Development Agreement itself. Director Kochwelp asked if the term of the Development Agreement was different for different parties. Mr. Bartram confirmed that the term was shorter for the developer than it was for the Districts. Upon

motion by Director Dalton and second by Director Ragland, the Board voted unanimously to approve the Memorandum of Agreement.

Director Kochwelp then stated that the Board would consider a renewed Plumbing Inspection Services Agreement with Dan McDowell d/b/a Able Restoration Services. Ms. Wingrove confirmed that the fees were not changing and that she was very pleased with the service provided by Mr. McDowell. Upon motion by Director Zuniga and second by Director Sams, the Board voted unanimously to approve the Plumbing Inspection Services Agreement attached as Exhibit "C".

Director Kochwelp then stated that the Board would consider the election matters set forth on the Board's supplemental agenda. Mr. Bartram presented the Certification of Unopposed Status of Candidates for the November 6, 2012 Director Election attached as Exhibit "D", and reported that the District's 2012 director election was uncontested and that the election could, therefore, be canceled. After discussion, upon motion by Director Sams and second by Director Ragland, the Board voted unanimously to approve the Order Declaring Election of Unopposed Candidates and Canceling November 6, 2012 Director Election attached as Exhibit "E".

Director Kochwelp then stated that the Board would consider taking action regarding retail utility rates and recognized Mr. Joyce for an update on the status of the rate study. Mr. Joyce presented the materials attached as Exhibit "F". He first reviewed the directives from the last Board meeting and noted that, without property tax revenues and developer funding, the District would need a water rate of \$17.23 per 1,000 gallons and a sewer rate of \$22.39 per 1,000 gallons. Mr. Bartram stated that this was important information to keep in mind in the context of a rate appeal. Mr. Joyce agreed, noting that the District could justify much higher rates than it had or was contemplating. Mr. Joyce then reviewed the rate design issues discussed at the last Board meeting, noting that the consensus had been to increase the base fee, change the breakpoints for the block/tiers, flatten the block/tier structure, and eliminate the HOA discount. He next addressed the assumptions on which his analysis was based and indicated that he had assumed a \$0.95 tax rate. Mr. Joyce next reviewed a summary cost allocation schedule, which he noted showed that the District was under-recovering on sewer rates. Mr. Joyce next addressed his rate recommendations, which he noted included comparisons to other utilities in the area. He recommended that the base fee be increased to \$38.00, which he noted was lower than the City of Austin and the City of Pflugerville. Mr. Joyce recommended that water volumetric rates be reduced and flattened into two tiers: the first from 0 to 15,000 gallons at \$5.25 per 1,000 gallons, and the second for usage over 15,000 gallons at \$7.00 per 1,000 gallons. Finally, Mr. Joyce recommended that the volumetric sewer rate be increased to \$7.50 per 1000 gallons in order to make the rate consistent with the other Participant Districts and to recover sewer expenses.

Mr. Joyce next reviewed a bill comparison based on current rates versus the proposed new rates. He stated that customers using the least amount of water would be affected more than the customers using larger amounts of water. Mr. Bartram stated that Mr. Joyce's rate study appeared to indicate that the District's current rates as well as the proposed new rates

were likely defensible in a rate appeal in that rates would need to be significantly higher if there was no developer funding. He also stated that the District's wholesale water cost was \$6.10 per 1,000 gallons and that residents should realize that it is not sustainable to charge less than you are paying for water. Director Kochwelp asked how the proposed rates would affect the developer's building program. Mr. Burnett stated that it was a sour pill, but that the developer understood the District's limited revenue sources and would get over any concern. Ms. Allen pointed out that the proposed rates were still lower than other MUDs in the area, including Travis County MUD No. 2. She further noted that, at some point, the District would begin to issue bonds, which would mean that part of the current operations and maintenance tax would need to be diverted to debt service, thereby further reducing the District's revenues. She stated that increasing rates now would help put the District in a position to adjust to the issuance of bonds. Director Zuniga asked if these rates would be self-sustaining at full build-out. Mr. Joyce stated that was the goal.

Mr. Bartram asked about the timing of the rate changes. Discussion ensued, and the Board generally agreed that the rates should go into effect with the new fiscal year. Ms. Wingrove noted that the billing period did not coincide exactly with the calendar month, and she suggested that the rates be effective for all bills rendered on or after November 1st, which would cover the October billing period. The Board then discussed the importance of notifying residents about the rate changes. Mr. Burnett stated that he would stand by to hand deliver the notice once completed. Ms. Allen stated that she would work with Mr. Joyce to develop the notice and that she would stress that there was a difference between the tax rate notice, which gets published in the newspaper, and notice of utility rate increase, which is not required to be published. After further discussion, upon motion by Director Sams and second by Director Ragland, the Board voted unanimously to (i) increase the base rate to \$38.00; (ii) implement a two-tiered volumetric rate of \$5.25 per 1,000 gallons for the first 15,000 gallons and \$7.00 per 1,000 gallons for the usage over 15,000 gallons; and (iii) approve a corresponding amendment to the District's rate order for all bills rendered on or after November 1, 2012, as reflected in the Amended Order Establishing Rates and Charges, and Adopting Rules with Respect to District Water, Wastewater and Drainage, Including Water Quality, Systems attached as Exhibit "G".

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 2012 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 Kochwelp closed the public hearing. Ms. Allen stated that she would defer her tax rate analysis until after discussion of the budget.

Ms. Bott then presented and reviewed the notices from Travis County Municipal Utility District No. 2 ("TCMUD#2"), copies of which are attached as Exhibit "H", advising the District that TCMUD#2 had adopted an operating budget for three joint facilities projects in its capacity as the manager of those joint facilities. Ms. Bott stated that all three of these projects affected the District, but that the only project that expenses were anticipated was the Southeast Detention Pond. She stated that the District's share of expenses for this facility was projected to be \$1,675.

Director Kochwelp then stated that the Board would discuss and consider adopting a budget for the District's 2012-2013 fiscal year. Ms. Bott presented and reviewed a draft budget attached as Exhibit "I", which she explained was based on a \$0.95 tax rate, 15 projected connections during the year, and \$137,750 in developer funding. She stated that the new utility rates discussed and approved earlier during the meeting had also been incorporated into the budget. She noted that the budget projected a \pm \$54,000 surplus at year end. Director Kochwelp asked if the amount of developer funding should be reduced accordingly. Ms. Allen recommended against reducing the amount of developer funding. She stated that the developer would not be billed for funding to the extent that it was not needed. After further discussion, Director Sams moved that the Board approve the Resolution Adopting Budget attached as Exhibit "J". Director Ragland seconded the motion, which then passed unanimously.

Mr. Bartram then presented the Developer Funding Agreement with 2010 ShadowGlen, LLC for the 2012-2013 fiscal year, a copy of which is attached as Exhibit "K", which he stated would provide for quarterly payment of the developer's budgeted deficit funding obligations. After discussion, upon motion by Director Zuniga and second by Director Dalton, the Board voted unanimously to approve the Developer Funding Agreement.

Director Alford stated that the Board would next consider establishing the District's 2012 tax rate. Ms. Allen distributed and reviewed the tax rate analysis attached as Exhibit "L", including a comparison of historical valuations and tax rates and a projection of income and expenses for the District's general fund. She recommended that, as reflected in the budget just adopted, the District establish a total tax rate for 2012 of \$0.95, comprised of a \$0.35 contract tax and a \$0.60 operations and maintenance tax. She pointed out that the average tax bill for residents was expected to decrease by \pm \$44 due to the decline in property values. After discussion, upon motion by Director Sams and second by Director Ragland, the Board voted unanimously to adopt a tax rate of \$0.95, allocated as recommended by Ms. Allen, and to adopt the Order Levying Taxes attached as Exhibit "M", with all of the Directors present and voting "aye".

Director Kochwelp stated that the Board would next consider approving an Amended and Restated Information Form. Mr. Bartram explained that Board action on this matter was not necessary because the District's overall tax rate had not changed.

Director Kochwelp then stated that the Board would receive a report from the District's utility operator. Ms. Wingrove directed the Board's attention to the utility report attached as Exhibit "N". She reviewed the water report and confirmed that bacteriological and chlorine samples were satisfactory. She next addressed water accountability, noting that water loss was less than 3%. Ms. Wingrove next reviewed the water usage analysis report, indicating that average customer usage in July was 6,200 gallons of water, as compared to 15,500 in TCMUD#2. She next reviewed the wastewater report and confirmed that the wastewater treatment plant was in compliance and that there had been no excursions. She next reviewed the connection, billing, adjustments, and delinquent accounts reports. She stated that there had been one termination in July, but that there were no delinquent accounts or write-offs for the month. Ms.

Wingrove stated that she had no updates on water conservation and drought management at this time. She then pointed out that a bulk trash collection day in the District was scheduled on October 13, 2012. She then concluded by reporting that the posting kiosk was expected to be completed the following week and that she would coordinate installation with Mr. Burnett.

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 cash activity report attached as Exhibit "O" and recommended approval. She then reviewed the budget comparison and the financial statements as of July 31, 2012, including the balance sheet, statement of revenues, and supplementary information for the District's general fund and special revenue fund. 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.

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 design of an additional section of lots was in process but that the new lots would not be on the ground until April 2013. Mr. Burnett stated that it changed from day to day, but that, currently, it looked as if the SunCal transaction would move forward and close by the end of the year. Mr. Burnett then reported that construction of the new Wal-Mart store had been delayed until November due to additional Texas Department of Transportation requirements. He next reported that it was his understanding that the golf course had engaged an engineer to begin the design of effluent facilities to connect the golf course to the City of Manor's wastewater treatment plant. Mr. Burnett concluded by reporting on commercial activity. He stated that the Autozone and CVS contracts had closed and that he had progress meetings with McDonald's and Walgreens the following week. Ms. Allen stated that she had had extensive conversations with the appraisal district and would be meeting with the chief appraiser in December to hand deliver the most up-to-date sales information to her.

Director Kochwelp then recognized Ms. Allen for a report from the District's financial advisor. Ms. Allen reviewed the foreclosure report attached as Exhibit "P", noting that there had been two foreclosures in the District in 2012.

Director Kochwelp then stated that the Board would receive a report from the District's engineer. Mr. Bartram stated that Mr. Schroeder had been unable to attend the meeting and directed the Board's attention to the engineering report attached as Exhibit "Q". Mr. Bartram reported that the Master District had approved the membrane equipment upgrades and services contracts earlier in the week. He summarized the scope of each contract and noted that both contracts were scheduled to take effect on October 1st.

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. He then discussed the status of the new/updated reimbursement

agreement with 2010 ShadowGlen, LLC reflecting the 2009 foreclosure and 2010 restructuring. He reported that the developer's legal counsel had approved the form of Utility Construction Agreement [ShadowGlen – Wilbarger Creek MUD No. 1], attached as **Exhibit "R"**. Mr. Bartram stated that he would be working with the developer to finalize the legal descriptions for the exhibits to the agreement, and he recommended approval of the agreement subject to completion of all exhibits. Director Kochwelp asked if releases would be obtained from the various entities involved in the evolutionary process over the last several years. Mr. Bartram stated that ShadowGlen Residential Community, Ltd., 2009 XIF, LLC, and Cottonwood Holdings, Ltd. were all joining in the agreement for the purpose of evidencing their consent to the new agreement and to terminate the original reimbursement contracts. After discussion, upon motion by Director Zuniga and second by Director Ragland, the Board voted unanimously to approve the Utility Construction Agreement [ShadowGlen – Wilbarger Creek MUD No. 1], subject to completion of all exhibits.

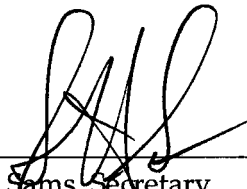
Director Kochwelp next announced that the Board would consider the Master District and Advisory Committee items on the agenda. Mr. Bartram directed the Board's attention to the agenda and draft minutes from the most recent joint meeting of the Board of Directors of Wilbarger Creek Municipal Utility District 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. At Mr. Bartram's request, Ms. Bott then reviewed the Master District budget attached as **Exhibit "S"**, which she noted had been adopted earlier in the week and was being presented in accordance with the Master District Contract.

Director Kochwelp then stated that the Board would consider its future meeting schedule. Mr. Bartram suggested that the Board meet in October and then go back to an every-other-month meeting schedule in order to reduce expenses. The Board concurred.

Director Kochwelp then asked if there was any further business to come before the Board. There being none, the meeting was adjourned at 12:59 p.m.

(Signature page follows.)

(SEAL)



Scott Sams, Secretary
Board of Directors

Date: December 6, 2013