

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

November 3, 2011

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 November 3, 2011, at the offices of Armbrust & Brown, PLLC, 100 Congress Avenue, Suite 950, 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 Zuniga, who arrived later, thus constituting a quorum. Also present at the meeting were Allen Douthitt of Bott & Douthitt, PLLC; Margret Wingrove of Crossroads Utility Services LLC; Ken Schroeder of Schroeder Engineering Company; Danny Burnett of 2010 ShadowGlen, LLC; and John Bartram of Armbrust & Brown, PLLC.

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 consider approving the following items on the consent agenda: (i) the minutes of the September 1, 2011 Board meeting; (ii) 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 "B"; and (iii) the Plumbing Inspection Services Agreement with Dan McDowell, d/b/a Able Restoration Services attached as Exhibit "C". Mr. Bartram summarized the changes to the Rate Order and Plumbing Inspection Services Agreement. Upon motion by Director Dalton and second by Director Ragland, the Board voted unanimously to approve the items on the consent agenda. At this time, Director Zuniga arrived at the meeting.

Director Kochwelp next announced that the Board would consider taking action regarding the taxation of goods-in-transit. Mr. Bartram reviewed the memorandum attached as Exhibit "D" and explained that Senate Bill 1, enacted by the Legislature during the first Special

Session earlier in the year, required, among other things, taxing entities that had previously acted to tax goods-in-transit to reconfirm that action by conducting a public hearing and adopting a resolution providing for the continued taxation of goods-in-transit before January 1 of the first tax year in which the entity desired to tax goods-in-transit. Mr. Bartram stated that it was unknown at this time whether there would ever be any goods-in-transit in the District, but he recommended that the District preserve all of its taxing opportunities, especially in light of the current budget challenges. Mr. Burnett stated that there was, in fact, a possibility that large firms with goods-in-transit might someday locate in the District. He stated that he supported the tax at this time, but he suggested that a waiver or exemption from taxation of goods-in-transit might be an economic development incentive for the District in the future. The Board generally agreed that the District should act to continue its eligibility to tax goods-in-transit. Director Kochwelp then stated that the Board would conduct a public hearing on the continued taxation of goods-in-transit by the District. He asked if there were any members of the public present that desired to speak on this matter or further questions or comments from the Board members. There being none, upon motion by Director Zuniga and second by Director Sams, the Board voted unanimously to close the public hearing. Director Sams then moved that the Board approve the Resolution Providing for Continued Taxation of Goods-in-Transit attached as Exhibit "E". Upon second by Director Ragland, the motion passed unanimously.

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 September. She stated that water usage was down, that the bacteriological and chlorine residual tests were satisfactory, and that water loss was 5.6% for the month. She noted that the amount of flushing was still higher than normal due to the change in water supplies, but that the discoloration was subsiding and flushing was tapering off. She also noted a compliment from a customer regarding the improvement in water quality. She next addressed wastewater treatment plant operations and noted that the plant was in compliance and running well and that the time between bleach cleanings was improving. She then reviewed the connection report for the District and the other Participant Districts. She stated that there had been one new tap in the District and that the budget of six taps for the 2011 fiscal year had been met. She next reviewed the District's water usage and billing reports, the wastewater report, and delinquent accounts. She stated that there were no write-offs to present this month. At this time, Mr. Douthitt reviewed the chart reflecting water purchased from Metro H2O, Ltd. attached as Exhibit "F" and noted that, based on either current average usage or the prior year's usage, total usage this year was trending toward approximately 145,000,000 gallons. Mr. Bartram stated that the consultants were looking at ways to manage water usage based on the Master District's take-or-pay obligations to Metro H2O, Ltd. He noted that Travis County MUD No. 2 and Cottonwood Creek MUD No. 1 had implemented Stage 2 water restrictions in effort to reduce consumption as well as help residents limit usage during the winter-average period, which would keep wastewater costs down over the coming year. Director Kochwelp stated that he felt the District should follow suit and implement Stage 2 restrictions as well. Ms. Wingrove concurred, noting that it was important to try to keep the restrictions applicable in the Participant Districts consistent. After discussion, upon motion by Director Zuniga and second

by Director Ragland, the Board voted unanimously to implement Stage 2 water usage restrictions until further notice. The Board directed Ms. Wingrove to notify the residents by separate postcard mailing and short reminders on future invoices. Mr. Bartram stated that he would prepare an appropriate notice for the District's website. The Board elected to forego signage at this time. Mr. Burnett stated that he would help get the message out through the HOA as well.

Director Kochwelp then stated that the Board would receive a report from the District's bookkeeper. Mr. Douthitt first reviewed the bills, invoices, and transfers set forth on the updated action items and cash activity report attached as Exhibit "G" and recommended approval. He then reviewed the budget comparison and the financial statements as of September 30, 2011, including the balance sheet, statement of revenues, and supplementary information for the District's general fund and special revenue fund. The Board discussed the status of developer funding, and Director Kochwelp asked Mr. Burnett what the developer's reaction was to the level of funding required this year. Mr. Burnett noted that the total amount of funding for the Participant Districts for the 2012 fiscal year would approach half a million dollars, and he stated that his company was frustrated that the amount of funding required had increased so significantly. However, he stated that he understood the reasons why and was appreciative of all of the efforts that the Participant Districts were making to reduce expenses. He also recognized that the amount of funding would decrease if building activity picked up. Mr. Douthitt then reviewed the latest quarterly investment report. After discussion, upon motion by Director Dalton and second by Director Zuniga, the Board voted unanimously to approve the bills, invoices, and transfers as presented. Mr. Bartram then directed the Board's attention to the Secretary's Certificate and Resolutions Regarding Bookkeeper's Account attached as Exhibit "H", which he stated increased the maximum account balance to \$10,000 in order to accommodate the payment of bills and invoices on an every-other-month meeting schedule. Upon motion by Director Zuniga and second by Director Ragland, the Board voted unanimously to approve the revised Secretary's Certificate and Resolutions Regarding Bookkeeper's Account.

Director Kochwelp then stated that the Board would receive a report from the developer. Mr. Burnett first reviewed the most recent completed home chart attached as Exhibit "I" and noted that there had been four new home starts in ShadowGlen. He stated that his company was working hard to generate building activity and was considering reducing lot prices, subordinating lots to builders, and even giving lots away as incentives. However, he stated that most builders were under lender restrictions limiting the number of spec homes that could be constructed at any given time. Mr. Burnett then reported that the Texas Department of Transportation ("TXDOT") had recently approved Proposition 12 funding for approximately \$2.94 million worth of intersection improvements on Highway 290 in Manor, which he stated would improve the symmetry of traffic signal spacing and facilitate the flow of traffic, as illustrated on the schematic attached as Exhibit "J". He stated the next step was for TXDOT and the City of Manor to work out an advance funding agreement, and he noted that construction of the project must be awarded by August 2013. Mr. Burnett reported that his company was under contract with CVS and Autozone and was in discussions with Popeye's

Chicken and Taco Bell for locations in Manor. He concluded by noting that he had no substantive update on the golf course closure but that it was his understanding that the golf course was switching attorneys for the sixth time. The Board discussed the issues concerning the golf course. Mr. Burnett indicated that water supply was one of the biggest problems, which had been exacerbated by the drought. He stated that the golf course was basically just keeping the greens alive at the current time.

Director Kochwelp then stated that the Board would receive a report from the District's financial advisor. Mr. Bartram noted that Ms. Allen had been unable to attend the meeting but that he understood from the Travis County MUD No. 2 meeting earlier in the week that foreclosures within Travis County appeared to be stabilizing.

Director Kochwelp then stated that the Board would receive a report from the District's engineer. Mr. Schroeder reviewed the report attached as **Exhibit "K"**. 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, noting that the daily wastewater flows at the wastewater treatment plant for the month of September had averaged  $\pm 133,000$  gpd, with a maximum day of  $\pm 184,000$  gpd, which was within the expected range of flows based on the current number of connections. He confirmed that all reports were satisfactory. With respect to operations expenses for the wastewater treatment plant, he stated that all invoices were generally within budget. Mr. Schroeder then addressed the recent TCEQ enforcement action for wastewater discharge permit violations. He reviewed the history of the notice of violation and subsequent enforcement action and explained that, after meeting with TCEQ staff, the Master District's consultants had been able to reduce the fine from \$7,752 to \$2,868 primarily due to correcting errors in the plant's compliance history and incorrect classification as a "major" facility. Mr. Schroeder then concluded by reviewing the status of the approved wastewater treatment plant repairs, as reflected on the report attached as **Exhibit "L"**.

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 next addressed website matters and stated that he would be working with Mr. Burnett on various updates, including the Stage 2 water usage restrictions. He stated that he had no further information regarding the golf course closure. Mr. Bartram then presented the Developer Funding Agreement with 2010 ShadowGlen LLC for the 2011-2012 fiscal year, a copy of which is attached as **Exhibit "M"**, which he stated had already been executed by the developer and 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.

Mr. Bartram next reviewed the memorandum attached as **Exhibit "N"** summarizing the effect of Senate Bill 100 and the District's options regarding the uniform date for director elections. He noted that, while Senate Bill 100 permitted water districts to continue to hold director elections in May of even-numbered years, the bill eliminated the Election Code's requirement that county elections administrators contract with water districts for election services for elections in May of even-numbered years. He stated that, at this time, Travis

County remained willing to contract for election services for a May 2012 election but that it could not commit to do so for elections in May of future even-numbered years and had recommended that districts move their elections to November as permitted by Senate Bill 100. He stated that, at this time, moving to a November election appeared to be the lower cost alternative. Discussion of the various options and associated costs ensued. Director Kochwelp stated that he was in favor of reducing and saving expenses wherever possible. Director Sams asked if there were any residents interested in running for the Board. Messrs. Bartram and Burnett stated that they were not aware of any. After further discussion, the Board directed Mr. Bartram to prepare the paperwork necessary to change the District's Director election cycle from May to November of even-numbered years for consideration at the Board's next meeting. Ms. Wingrove supported this action, noting that Travis County MUD No. 2 had done the same thing and this would keep the election cycles the same within the ShadowGlen community.

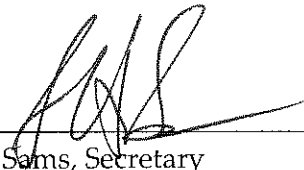
Director Kochwelp then stated that the Board would receive a report regarding Master District and Advisory Committee items. Mr. Bartram first reviewed the agenda and draft minutes from the September 6, 2011 and October 3, 2011 joint meetings of the Board of Directors of Wilbarger Creek Municipal Utility 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. He then presented the Resolution Adopting Master District Budget for the 2011-2012 fiscal year attached as Exhibit "O", as required under the Master District Contract.

Director Kochwelp then questioned whether there were any future agenda items or further business to come before the Board. Mr. Bartram noted that the Board's next meeting was scheduled for Thursday, January 5, 2012; but he stated that this meeting may have to be moved back or postponed until February in order to accommodate review and approval of the District's audit, which might not be completed by January 5<sup>th</sup>. Mr. Douthitt stated that his office was in the process of assembling all of the District's financial information for submittal to the auditor and that he would know if rescheduling the January meeting was necessary within the next couple of weeks. The Board generally agreed that the January meeting would be held later in the month if necessary.

There being no further business to come before the Board, the meeting was adjourned.

*(Signature page follows.)*

(SEAL)



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Scott Sams, Secretary  
Board of Directors

Date: January 5, 2012