

MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 94
Minutes of Meeting of Board of Directors
December 1, 2020

The Board of Directors (the "Board") of Montgomery County Municipal Utility District No. 94 (the "District") met in regular session, open to the public on December 1, 2020, in accordance with the duly posted notice of meeting, and the roll was called of the duly constituted members of said Board, as follows:

Jim Spitzmiller, President
Jason Schultz, Vice President
Joseph Frost, Secretary
Merry Leonard, Assistant Secretary
Eric Lugger, Assistant Secretary

all of whom participated in the meeting via telephone conference call, thus constituting a quorum.

Also attending the meeting via telephone conference call were Jon VanderWilt of Costello, Inc. ("Costello"); Michael Williams, Cameron King, and Jeanette Montes of H2O Innovation ("H2O"); Jorge Diaz of McLennan & Associates, LP ("McLennan"); Brittany Keeswood of Assessments of the Southwest, Inc. ("ASW"); Barbara Nussa of Republic Services, Inc. ("Republic"); John Rigsdell, Jerry Rueschhoff, Roger Olson, John Kessler, and Leanne Kessler, residents of the District; and Spencer Creed, Gordon Craner, and Kristin Eddlemon of Schwartz, Page & Harding, L.L.P. ("SPH").

EXPLANATION OF TELEPHONE CONFERENCE CALL MEETING PROCEDURES AND CALL TO ORDER

Mr. Creed explained to the Board the procedures to be used during the telephone conference call meeting. In connection therewith, he informed the participants that the meeting would be recorded, and requested that participants clearly state his or her name before speaking, including when making or seconding a motion. Mr. Creed further explained that he would conduct a roll call vote for all motions and that Board members should wait to vote on a motion until his or her name has been called. Similarly, Mr. Creed stated that a full roll call of all participants would be conducted at the start of each telephone conference meeting for attendance purposes.

The President called the meeting to order and declared it open for such business as might regularly come before the Board.

PUBLIC COMMENTS

There were no comments from the public at this time.

QUALIFICATION STATEMENTS, OFFICIAL BONDS, OATHS OF OFFICE, AFFIDAVITS OF CURRENT DIRECTOR AND ELECTIONS NOT TO DISCLOSE CERTAIN INFORMATION OF DIRECTORS

The Board considered acceptance of the Qualification Statements, Official Bonds, Oaths of Office, Affidavits of Current Director and Elections Not to Disclose Certain Information for Eric Lugger and John Kessler. In that regard, Mr. Lugger and Mr. Kessler presented their Statements of Elected/Appointed Officer, Official Bonds, Oaths of Office, Affidavits of Current Director and Elections Not to Disclose Certain Information. It was noted that Directors Lugger and Kessler had taken their oaths of office in advance of the meeting. It was then moved by Director Spitzmiller, seconded by Director Leonard and unanimously carried, that the Board accept said Statements of Elected/Appointed Officer, Official Bonds, Oaths of Office, Affidavits of Current Director and Elections Not to Disclose Certain Information and declare Directors Lugger and Kessler to be duly elected and qualified directors of the District. Directors Lugger and Kessler participated in the remainder of the meeting.

ELECTION OF OFFICERS

The next item to be considered was the election of officers. The President called for a nomination for the office of Vice President. After discussion, Director Spitzmiller moved that Director Leonard be elected Vice President of the Board. Director Frost seconded the motion, which carried unanimously.

The President called for a nomination for the office of Assistant Secretary. After discussion, Director Lugger moved that Director Kessler be elected an Assistant Secretary of the Board. Director Frost seconded the motion, which carried unanimously.

DISTRICT REGISTRATION FORM

The Board considered approving a District Registration Form (the "Form"). Mr. Creed explained that the Form would be filed with the Texas Commission on Environmental Quality ("TCEQ") to record the Directors' new terms of office. After review and discussion of the Form, Director Frost moved that SPH be authorized to prepare the Form and submit it to the TCEQ. Director Leonard seconded said motion, which unanimously carried.

DIRECTOR TRAINING REQUIREMENTS

Mr. Creed discussed with the Board the open government training requirements for public officials. He advised that public officials, including directors of a municipal utility district, must complete separate training courses regarding the Texas Open Meetings Act ("OMA") and the Texas Public Information Act ("PIA"). He presented and reviewed with the Board a Memorandum prepared by SPH which summarizes the training requirements, a copy of which is attached hereto as **Exhibit A**. Mr. Creed advised that the deadline for public officials to complete their training is the 90th day after they either take their oath of office or otherwise assume their responsibilities as a public official. Mr. Creed further noted that this training requirement only applies to Director Kessler, given that the above directors have previously completed it, and that it will be Director Kessler's responsibility to ensure he has completed his training by the deadline.

DISCUSSION OF CONFLICTS DISCLOSURE REPORTING REQUIREMENTS

Mr. Creed next presented to Director Kessler a Memorandum prepared by SPH and questionnaire regarding conflict of interest disclosure reporting, and discussed same. Director Kessler presented his completed conflict of interest questionnaire.

MINUTES OF MEETING

The Board next considered approval of the minutes of the Board meetings held on November 3, 2020, and November 16, 2020. After discussion on the matter, it was moved by Director Luger, seconded by Director Leonard and unanimously carried, that the minutes of the Board meetings held on November 3, 2020, and November 16, 2020, be approved, as written.

REPORT FROM THE MONTGOMERY COUNTY CONSTABLE'S OFFICE REGARDING SECURITY

Mr. Creed next presented and reviewed a security report provided by the Montgomery County Constable's office for the month of November 2020, a copy of which report is attached hereto as **Exhibit B**. No action was taken by the Board at this time.

REPORT BY REPUBLIC SERVICES, INC.

Ms. Nussa next addressed the Board on behalf of Republic and presented a report, a copy of which is attached hereto as **Exhibit C**. She advised that the document shred event is scheduled to be held within the District on May 15, 2020, from 9:00 a.m. to 12:00 p.m. No action was taken by the Board at this time.

TAX ASSESSOR/COLLECTOR'S REPORT

Ms. Keeswood next presented and reviewed with the Board the Tax Assessor/Collector's Report for the month of November 2020, including a delinquent listing as of November 30, 2020, copies of which are attached hereto as **Exhibit D**. After discussion, it was moved by Director Frost that the Tax Assessor/Collector's Report be approved and the disbursements identified therein be approved for payment. Director Leonard seconded the motion, which carried unanimously.

DELINQUENT TAX REPORT

Mr. Creed reminded the Board that the District's delinquent tax attorneys, Perdue, Brandon, Fielder, Collins & Mott, L.L.P., provide written reports on a quarterly basis, and advised that no report was received for presentation at today's meeting.

OPERATIONS REPORT

The Board next considered the Operations Report. Mr. Williams presented a written report prepared by H2O, a copy of which is attached hereto as **Exhibit E**, and reviewed same with the Board.

Mr. Williams reported with regard to an appeal of District charges received from Mr. Ricky Plunk of 27308 Dara Springs Lane, a copy of which is attached to the Operations Report. After discussion on the matter and consideration of the relevant facts and circumstances, Director Spitzmiller moved that H2O be authorized to offer a payment plan to Mr. Plunk with a minimum payment due of \$100 per month to satisfy his delinquent bill, subject to Mr. Plunk remaining current on current billings. Director Leonard seconded the motion, which unanimously carried.

Mr. Williams next reported with regard to an appeal of District charges received from Koriand'r Williams of 27419 Tracy Ridge Court, a copy of which is attached to the Operations Report. He noted that the customer has requested waiver of a return check fee in the amount of \$25.00. After discussion on the matter and consideration of the relevant facts and circumstances, Director Spitzmiller moved that H2O be authorized to waive the return check fee, as requested. Director Kessler seconded the motion, which unanimously carried.

Mr. Williams next addressed the Board regarding two (2) accounts that have defaulted on payment plans that were previously authorized by the Board. Following discussion, Director Spitzmiller moved that H2O be authorized to tag the residences for disconnection of water service due to nonpayment, pursuant to the terms of the District's Rate Order. Director Lugger seconded the motion, which unanimously carried.

Mr. Williams next advised that the HydroRanger located at lift station no. 3 is in need of being replaced. Following discussion, Director Spitzmiller moved that H2O be authorized to replace the HydroRanger located at lift station no. 3 at a cost of approximately \$2,915. Director Lugger seconded the motion, which unanimously carried.

Ms. Nussa exited the meeting at this time.

Mr. Williams next addressed the Board regarding cellular modems to be located at the remote water well. He advised that the modems will replace the existing antenna at a cost of approximately \$3,600. He further advised that the District has the option of purchasing a data service plan at a cost of approximately \$1,200/year. Following discussion, Director Spitzmiller moved that H2O be authorized to install the modems and purchase the data service plan, as discussed. Director Lugger seconded the motion, which unanimously carried.

Director Kessler next queried Mr. Williams regarding the wastewater collection system and lift station run time information found at page 4 of the Operations Report, and whether that information is being tracked for purposes of asset management and measuring the facilities' useful life. Mr. Williams responded and noted that the information is not currently being utilized for asset management purposes.

Mr. Creed next reported to the Board that the Texas Water Code requires a retail public utility providing potable water to perform and file with the Texas Water Development Board ("TWDB") a water audit every five years computing the utility's most recent annual system water loss. In connection therewith, Mr. Creed requested that the Board consider authorizing the District's operator to perform a 2020 Water Loss Audit. After discussion, Director Leonard moved that the District's operator be authorized to file the required water loss audit prior to the due date of May 1, 2021. Director Lugger seconded the motion which carried unanimously.

ENGINEER'S REPORT

Mr. VanderWilt presented to the Board a written Engineer's Report, dated December 1, 2020, a copy of which report is attached hereto as **Exhibit F**, relative to the status of various projects within the District.

Mr. VanderWilt provided the Board with an update regarding repair of the low area that settled adjacent to Spring Trails Bend, north of Broadway Elementary School. He reminded the Board that a proposal in the amount of \$805 for this repair was provided by Silversand Services. In addition, he reminded the Board that the Spring Trails Community Association (the "Association") requested that sod be placed in the area adjacent to the new sidewalk recently installed along Channing Springs and Kallie Hills, and that, at the previous meeting, the Board authorized Silversand Services to install the sod, subject to the price not exceeding \$1,000. Mr. VanderWilt advised that Silversand's proposal to install the sod is in the amount of \$1,090. Following discussion, Director Lugger moved that the Board approve the proposals provided by Silversand Services in the total amount of \$1,895. Director Spitzmiller seconded the motion, which unanimously carried.

Mr. VanderWilt next advised that Montgomery County Municipal Utility District No. 119 has requested that the District release the temporary access easement previously utilized for accessing the wastewater treatment plant site. Mr. VanderWilt advised that a permanent access road has been constructed in an alternate location and that Costello will confirm the sufficiency of same before the easement is recorded. Following discussion, Director Lugger moved that the Board approve the release of the temporary access easement and authorize the President to execute same on behalf of the Board and the District, subject to confirmation and approval of the permanent access road by Costello. Director Spitzmiller seconded the motion, which unanimously carried.

AMERICA'S WATER INFRASTRUCTURE ACT OF 2018

Mr. Creed next addressed the Board regarding America's Water Infrastructure Act of 2018 ("AWIA") and the District's compliance with same, as discussed at the previous meeting. Mr. King addressed the Board regarding completion of the Risk and Resilience Assessment ("RRA") of the District's water system in compliance with the AWIA. He advised that the estimated cost to prepare the RRA will not exceed \$8,000. Following discussion, Director Lugger moved that H2O be authorized to prepare the RRA for the District at a cost not to exceed \$8,000. Director Leonard seconded the motion, which unanimously carried. Mr. Kessler inquired about having H2O research reimbursement of these costs as this is a homeland security program. Mr. King advised that he would do so.

UNAUTHORIZED CONSTRUCTION OF DRAINAGE DITCH

A discussion ensued regarding Riley Fuzzel Road Properties, LLC's recent unauthorized construction of a drainage ditch on District property to drain its adjacent commercial tract and related issues. Mr. Creed reminded the Board that it had requested that the property owner provide a written report from a qualified environmental consultant confirming that the project did not require a U.S. Army Corps of Engineers permit or approval. He advised that such report has been received and reviewed by Costello, and that a copy was previously emailed to the Board. Mr. VanderWilt confirmed that he believes the report addresses the issues raised by the Board.

Director Lugger advised that there is a separate existing ditch located in this area in need of maintenance. Following discussion, Director Lugger moved that Storm Water Solutions, L.P. be authorized to maintain the ditch at a cost not to exceed \$500. Director Spitzmiller seconded the motion, which unanimously carried.

HISTORICAL BILLING FOR DISTRICT'S SHARE OF OPERATING COSTS ASSOCIATED WITH HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 92 ("NO. 92") PLANT

A discussion ensued regarding historical billing of the District's share of operating costs associated with the No. 92 wastewater treatment plant. In that regard, Mr. Creed reminded the Board that SPH sent correspondence to No. 92 to request a billing adjustment for the District, and that billing of expenses associated with operating costs for the wastewater treatment plant be corrected going forward. Mr. Creed advised that the District is in receipt of correspondence from No. 92, a copy of which is attached hereto as **Exhibit G**, indicating that a total of \$35,053.26 is due to the District. Director Spitzmiller expressed concern regarding potential discrepancies in the calculation of No. 92's monthly flow being sent to the Plant and its impact on the billing. Mr. Diaz advised that he will further review this matter and report back to the Board.

ASSOCIATION CONSTRUCTION PROJECTS WITHIN DISTRICT PROPERTY AND RELATED COMMUNICATIONS

The Board next discussed Association construction and/or maintenance projects within the District and related communications. Mrs. Kessler addressed the Board at this time and presented and reviewed a proposal for proposed improvements to Cardinal Park and construction of a community center, a copy of which is attached hereto as **Exhibit H**. Mrs. Kessler noted that the Association is requesting the District fund the construction costs for the pavilion at the park. Discussions ensued regarding the proposed improvements and the costs related to same. No action was taken by the Board at this time. The Board requested that no demolition of any existing improvements take place pending further discussion.

STORMWATER MANAGEMENT PROGRAM

The Board considered the status of the District's Stormwater Management Program ("SWMP"), including any training necessary under the SWMP and comments from the public. No action was taken by the Board.

ISSUANCE OF UTILITY COMMITMENTS

The Board deferred consideration of issuance of utility commitments after noting that no requests had been received.

BOOKKEEPER'S REPORT

Mr. Diaz next presented and reviewed a written Bookkeeper's Report dated December 1, 2020, including the District's Investment Report for the month of November 2020, copies of which are attached hereto as **Exhibit I**. After discussion, it was moved by Director Frost that the Board (i) approve the Bookkeeper's Report and Investment Report, and (ii) authorize the District's

Investment Officer to execute the Investment Report on behalf of the Board and the District. Director Leonard seconded the motion, which carried unanimously.

STATUS OF COMPLIANCE BY THE DISTRICT WITH TEXAS GOVERNMENT CODE, CHAPTER 2265

The Board considered the status of compliance by the District with Texas Government Code, Chapter 2265 relative to energy reporting requirements. Mr. Creed advised that pursuant to the energy efficiency and reporting requirements set forth in said code, the District must report its annual electricity usage and cost and make said report accessible to the public. Mr. Diaz advised that Acclaim Energy Advisors has prepared such report, a copy of which is attached to the Bookkeeper's Report.

STATUS OF WEBSITE

The Board considered the status of the District's website. It was noted that Apollo IT Consulting, LLC did not provide a report this month.

ATTORNEY'S REPORT

The Board next considered the attorney's report. Mr. Creed advised that the District is in receipt of correspondence from the San Jacinto River Authority ("SJRA"), a copy of which is attached hereto as **Exhibit J**, providing the results of the appointment of a candidate to the SJRA's Groundwater Reduction Plan Contract Review Committee.

Mr. Creed next presented an Annual Disclosure provided by Masterson Advisors, LLC relative to MSRB Rule G-10, a copy of which is attached hereto as **Exhibit K**.

Mr. Creed reminded the Board that, at a previous meeting, it authorized the installation of pavers by a resident in the portion of the greenbelt located along Spring Trails Drive and owned by the District. He advised that the resident who lives adjacent to the greenbelt, Ms. Luytjes, has recently expressed concern about the amount of traffic going through the area and the lack of privacy in their backyard, and has provided a photo of the area for review by the Board. The Board noted that such photo appears to have been taken prior to the installation of the pavers. No action was taken by the Board at this time.

Mr. Creed next advised that the District is receipt of a request from a resident to repair and/or modify the sidewalks located at the entrances to each subdivision within the District. Following discussion on the matter and request, no action was taken by the Board at this time.

EXECUTIVE SESSION

The Board determined it would not be necessary to enter into Closed Session pursuant to Texas Government Code, Section 551.071.

LIST OF EXHIBITS

EXHIBIT A	Memorandum prepared by Schwartz, Page & Harding, L.L.P.
EXHIBIT B	Security Report for November 2020
EXHIBIT C	Report provided by Republic Services, Inc.
EXHIBIT D	Tax Assessor/Collector's Report
EXHIBIT E	Operations Report
EXHIBIT F	Engineer's Report
EXHIBIT G	Correspondence from Harris County Water Control and Improvement District No. 92
EXHIBIT H	Proposal prepared by Spring Trails Community Association for proposed improvements to Cardinal Park and the community center
EXHIBIT I	Bookkeeper's Report
EXHIBIT J	Correspondence from the San Jacinto River Authority
EXHIBIT K	Annual Disclosure provided by Masterson Advisors, LLC