

**MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 94**  
**Minutes of Meeting of Board of Directors**  
**January 5, 2021**

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 January 5, 2021, 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  
Merry Leonard, Vice President  
Joseph Frost, Secretary  
Eric Lugger, Assistant Secretary  
John J. Kessler, 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 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"); Blake Kridel of Storm Water Solutions, L.P. ("SWS"); John Rigsdell, Jerry Rueschhoff, Carol Ann West, and Leanne Kessler, residents of the District; and Spencer Creed, Gordon Cranner, 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**

Ms. West addressed the Board regarding the status of maintenance of the drainage swale located between the District and the apartment complex located in Montgomery County Municipal Utility District No. 119 ("No. 119"). Mr. VanderWilt advised that this matter would be further discussed, under the engineer's report.

## **MINUTES OF MEETING**

The Board next considered approval of the minutes of the Board meeting held on December 1, 2020. Certain revisions proposed by Director Kessler were noted to said minutes. After discussion on the matter, it was moved by Director Lugger, seconded by Director Kessler and unanimously carried, that the minutes of the Board meeting held on December 1, 2020, be approved, as revised.

## **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 December 2020, a copy of which report is attached hereto as **Exhibit A**. 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 B**. She advised that Republic has prepared a 2021 calendar of the pickup schedule for the District. The Board requested that, upon review and approval of the calendar by the Board, copies of same be provided to H2O for distribution in customer water bills. The Board also requested that copies of the calendar be provided to Spring Trails Community Association (the "Association") and the District's website provider for posting, to which Ms. Nussa agreed.

## **TAX ASSESSOR/COLLECTOR'S REPORT**

Ms. Keeswood next presented and reviewed with the Board the Tax Assessor/Collector's Report for the month of December 2020, including a delinquent listing as of December 31, 2020, copies of which are attached hereto as **Exhibit C**. After discussion, it was moved by Director Leonard that the Tax Assessor/Collector's Report be approved and the disbursements identified therein be approved for payment. Director Frost seconded the motion, which carried unanimously.

## **EXEMPTIONS FROM TAXATION**

Mr. Creed outlined for the Board the various tax exemptions available for the District, including the exemptions provided for by the Texas Constitution and the Texas Tax Code, as amended. He advised that under said provisions, the District may provide for the exemption of up to 20% (but not less than \$5,000, if granted) of the market value of residential homestead improvements for the year 2021, and the District may also exempt residential homesteads of persons who are under a disability for purposes of payment of disability insurance benefits under the Federal Old Age, Survivors and Disability Insurance Act, or its successor, or persons sixty-five years of age or older from ad valorem taxes levied by the District during the calendar year 2021, and, if any such exemptions are granted, they must be for not less than \$3,000 of the market value of such homesteads. After further discussion of the matter, Director Leonard moved that the District (a) not grant the residential homestead exemption, and (b) grant an exemption for persons under a disability or sixty-five years of age or older in the amount of \$10,000 from ad valorem taxes levied by the District during the calendar year 2021, and that the Resolution relative to same,

attached hereto as **Exhibit D**, be approved and adopted by the Board and the District. Director Frost seconded said motion, which carried unanimously.

### **ADDITIONAL PENALTY ON DELINQUENT PERSONAL PROPERTY TAXES**

The Board considered the adoption of a Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes, attached hereto as **Exhibit E**. Mr. Creed advised that the Board is authorized pursuant to the Texas Tax Code, as amended, to impose, under certain conditions, 60 days after the date the taxes become delinquent, an additional penalty not to exceed twenty percent (20%) of the total taxes, penalty and interest due the District on personal property taxes that remain delinquent as of said 60th day, as more fully described in said Resolution. After discussion, it was moved by Director Leonard, seconded by Director Frost and unanimously carried, that the Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes be adopted by the Board.

### **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 F**, and reviewed same with the Board.

Mr. Williams reported with regard to an appeal of District charges received from Ms. Stephanie Alfred of 1911 Kaylyn 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 Frost moved that H2O be authorized to offer a payment plan to Ms. Alfred with a minimum payment due of \$100 per month to satisfy his delinquent bill, subject to Ms. Alfred remaining current on future billings. Director Spitzmiller seconded the motion, which unanimously carried.

Mr. Williams next reported with regard to an appeal of District charges received from Mr. John Rodriguez of 2314 Colonial Springs Lane, a copy of which is attached to the Operations Report. He noted that the customer has requested an adjustment to his account due to high billings during the months of October and November. After discussion on the matter and consideration of the relevant facts and circumstances, Director Frost moved that H2O be authorized to offer Mr. Rodriguez a six (6) month payment plan to satisfy his current bill, subject to Mr. Rodriguez remaining current on future billings. Director Lugger seconded the motion, which unanimously carried.

Mr. Williams reported with regard to an appeal of District charges received from Ms. Diana Herthneck of 2338 Morgan Ridge 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 Ms. Herthneck with a minimum payment due of \$100 per month to satisfy her delinquent bill, subject to Ms. Herthneck

remaining current on future billings. Director Lugger seconded the motion, which unanimously carried.

A discussion ensued regarding the America's Water Infrastructure Act of 2018 ("AWIA") and the District's compliance with same, as discussed at previous meetings. Mr. Williams reminded the Board that, at the previous meeting, an inquiry was made regarding potential reimbursement of the District's costs associated with compliance with the AWIA. He advised that H2O has researched this matter, and that no remaining funds are available for the District.

A discussion next ensued regarding the proposed preparation of an asset management plan for the District. Mr. Williams advised that H2O anticipates the cost to prepare such a plan would be approximately \$16,000. No action was taken by the Board at this time.

Mr. Williams next advised that the HydroRanger located at lift station no. 3 has been replaced, as authorized by the Board at the previous meeting.

### **CONSUMER CONFIDENCE REPORT**

The Board next considered authorizing H2O to provide required information to districts receiving water from the District relative to Consumer Confidence Reports. Mr. Creed advised the Board that pursuant to Consumer Confidence Report requirements promulgated by the United States Environmental Protection Agency, the District is required to provide, by April 2021, a report containing various information regarding the District's water supply to any other water supplier which has received water from the District during the past year. After discussion on the matter, Director Lugger moved that the Board authorize H2O to provide the required information as set forth hereinabove. Director Leonard seconded said motion, which carried unanimously.

### **ENGINEER'S REPORT**

Mr. VanderWilt presented to the Board a written Engineer's Report, dated January 5, 2021, a copy of which report is attached hereto as **Exhibit G**, relative to the status of various projects within the District.

Ms. VanderWilt advised that four (4) proposals were received in connection with maintenance of the drainage swale located along the northeast boundary of the District (the "Project"), copies of which are attached to the Engineer's Report. He further advised that the low bid was submitted by SWS, in the annual amount of \$11,098.50, plus a one-time cost of \$1,000 for debris removal. Following discussion, Director Lugger moved that the Board approve the proposal for the Project provided by SWS, as presented and as recommended by Costello. Director Leonard seconded the motion, which carried with Directors Spitzmiller, Lugger, Leonard, and Kessler voting in favor of such motion, and Director Frost voting nay.

Mr. VanderWilt next addressed the Board regarding proposed tree trimming within the District by Trees by Frank. He advised that the cost to maintain the trees is (i) \$5,900 along the Water Plant site, (ii) \$775 along the Water Well site, and (iii) \$8,300 along the fence lines of the homes located along Geneva Hills Lane and Eden Meadows Drive which are adjacent to District property. Following discussion, Director Leonard moved that Trees by Frank be authorized to maintain the trees located along the Water Plant and Water Well sites, as well as behind the homes

located along Geneva Hills Lane and Eden Meadows Drive, subject to approval by Director Spitzmiller as to (iii) once he inspects the area. Director Lugger seconded the motion, which unanimously carried.

Mr. VanderWilt next provided the Board with an update concerning the status of improvements to the wastewater treatment plant by No. 119. He advised that No. 119's engineer provided correspondence to the District regarding Pay Estimate No. 10 and Pay Estimate No. 11 in the total amounts of \$178,906.47 and \$209,976.30, respectively. A copy of said correspondence is attached to the Engineer's Report. Following discussion, Director Lugger moved that the Board concur in the District's payment of its shares of Pay Estimate Nos. 10 and 11 to No. 119. Director Spitzmiller seconded the motion, which unanimously carried.

Mr. VanderWilt next reminded the Board No. 119 requested that the District release the temporary access easement previously utilized for accessing the wastewater treatment plant site, and that the Board previously approved the release of the easement, subject to confirmation and approval of the permanent access road by Costello. He advised that Costello has approved the permanent access road, and that the temporary access easement has been released.

In connection with the maintenance of the drainage ditch located at the termination point of the drainage swale constructed by Riley Fuzzel Road Property, LLC, Mr. VanderWilt stated that Costello recommends that maintenance of the ditch be performed by the same contractor that is selected for the maintenance of the drainage swale located along the northeast boundary of the District. In that regard, the Board requested that Costello obtain a proposal for maintenance of the ditch from SWS for review next month.

Director Kessler requested that Mr. VanderWilt again provide the directors with the estimated cost to make sidewalk adjustments within the District in advance of the next budget adoption. Mr. VanderWilt advised that he would do so.

#### **DISCUSSION REGARDING CONDITION OF STORMWATER DRAINAGE FACILITIES AND INFRASTRUCTURE WITHIN THE DISTRICT AND ALONG TURTLE CREEK**

The Board next discussed the condition of stormwater drainage facilities and infrastructure within the District and along Turtle Creek. Director Kessler addressed the Board at this time and presented and reviewed a report, a copy of which is attached hereto as **Exhibit H**. A discussion ensued regarding maintenance and/or repair of certain facilities located within the District. Following discussion, Director Leonard moved that SWS be authorized to review the items identified in Director Kessler's report, and to provide a proposal/schedule for any necessary repair or maintenance items for review by the Board at the next meeting. Director Lugger seconded the motion, which unanimously carried.

#### **AMERICA'S WATER INFRASTRUCTURE ACT OF 2018**

The Board deferred discussion regarding AWIA and the District's compliance with same. It was noted that H2O has been authorized to prepare the necessary reports and certifications for the District.

**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. Mr. Diaz advised that No. 92 has now indicated it will provide a check to the District for the amount of its reimbursement rather than applying a credit against any invoices. 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. A discussion ensued regarding proposed improvements to Cardinal Park and construction of a community center, and the Association's request that the District fund the construction costs for the pavilion at the park. Mr. Creed reviewed with the Board certain tax questions associated with the District's previously issued park bonds as discussed last month. The Board next discussed its participation in the financing of the proposed pavilion at the park. Following discussion, the Board concurred to table this matter given the current circumstances and to consider it again in approximately July of 2021.

The Board noted that it did not object to the Association moving forward with its planned demolition of the sales center building and construction of the community center. Director Leonard inquired who is the record owner of the existing sales center building and noted, if it is the District, that the Association should obtain the District's approval on any necessary paperwork associated with its demolition. Mrs. Kessler advised that the Association will research the matter.

Mrs. Kessler exited the meeting at this time.

**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 January 5, 2021, including the District's Investment Report for the month of December 2020, copies of which are attached hereto as **Exhibit I**. After discussion, it was moved by Director Leonard 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 Frost seconded the motion, which carried unanimously.

**RESOLUTION ADOPTING LIST OF QUALIFIED BROKERS AUTHORIZED TO ENGAGE IN INVESTMENT TRANSACTIONS WITH THE DISTRICT**

The Board considered adopting a list of qualified brokers authorized to engage in investment transactions with the District. Mr. Creed advised that, pursuant to the Public Funds Investment Act, the Board is required to review, and revise if necessary, such list at least annually. He presented to and reviewed with the Board a Resolution Adopting List of Qualified Brokers Authorized to Engage in Investment Transactions with the District (the "Resolution"), and a list of financial institutions, brokers and dealers attached thereto, together with a comparison of the list submitted and the list previously adopted by the Board, copies of which are attached hereto as **Exhibit J**. Mr. Creed further noted that the broker list presented is a list of potential institutions with which the District may engage in investment transactions compiled with the input of the District's Investment Officer, but it is ultimately the Board's decision as to where the District's funds are actually placed. After discussion, Director Frost moved that the Resolution be approved, and that the President and Secretary be authorized to execute same on behalf of the Board and the District. Director Lugger seconded said motion, and the motion carried with Directors Leonard, Frost, Lugger, and Kessler voting aye and Director Spitzmiller abstaining from the discussion and vote.

**STATUS OF WEBSITE**

The Board considered the status of the District's website. In that regard, Mr. Creed presented and reviewed a report provided by Apollo IT Consulting, LLC, a copy of which is attached hereto as **Exhibit K**. No action was taken by the Board at this time.

**AUTHORIZE PREPARATION AND SUBMISSION OF DISTRICT INFORMATION TO TEXAS COMPTROLLER OF PUBLIC ACCOUNTS FOR INCLUSION IN THE SPECIAL PURPOSE DISTRICT PUBLIC INFORMATION DATABASE**

Mr. Creed next informed the Board that, pursuant to provisions of Chapter 403, Government Code, and Chapter 203, Local Government Code, the District is required to submit information to the Texas Comptroller of Public Accounts (the "Comptroller") for inclusion in the Special Purpose District Public Information Database. Following discussion, Director Kessler moved that the District's auditor, McCall Gibson Swedlund Barfoot, PLLC ("McCall") be authorized to prepare the required information and submit same to the Comptroller for inclusion in the Special Purpose District Information Database. Director Lugger seconded the motion, which unanimously carried.

**RENEWAL OF DISTRICT INSURANCE POLICIES**

The Board next considered authorizing solicitation of proposals for renewal of the District's insurance policies. Mr. Creed advised the Board that the District's current policies are provided through Arthur J. Gallagher & Co. ("AJG") and will expire on March 31, 2021. Following discussion, Director Kessler moved that SPH be authorized to solicit a proposal for renewal of the

District's insurance coverage from AJG, as well as a proposal from McDonald Wessendorff, for review and consideration by the Board at its next meeting.

### **ATTORNEY'S REPORT**

The Board next considered the attorney's report. Mr. Creed advised that the District is in receipt of a thank you note from the organizer of a recent children's program who was able to utilize certain of the resource links on the District's website, and proposing the inclusion of an additional link on the website regarding water. No action was taken by the Board.

### **EXECUTIVE SESSION**

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

### **POSSIBLE FUTURE AGENDA ITEMS**

The Board considered items for placement on future agendas. No specific agenda items, other than routine and ongoing matters, were requested.

Director Lugger requested that Director Frost contact the young man who recently completed the storm sewer system medallion project to obtain a report about the areas where he indicated he observed significant debris. Director Frost advised that he would do so.

### **ADJOURN**

There being no further business to come before the Board, Director Lugger moved that the meeting be adjourned. Director Leonard seconded said motion, which unanimously carried.

/s/ Joseph Frost  
Secretary  
Board of Directors

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## LIST OF EXHIBITS

EXHIBIT A	Security Report for December 2020
EXHIBIT B	Report provided by Republic Services, Inc.
EXHIBIT C	Tax Assessor/Collector's Report
EXHIBIT D	Resolution Concerning Exemptions From Taxation
EXHIBIT E	Resolution Authorizing an Additional Penalty on Delinquent Personal Property Taxes
EXHIBIT F	Operations Report
EXHIBIT G	Engineer's Report
EXHIBIT H	Report provided by Director Kessler Concerning Drainage Infrastructure
EXHIBIT I	Bookkeeper's Report
EXHIBIT J	Resolution Adopting List of Qualified Brokers Authorized to Engage in Investment Transactions with the District
EXHIBIT K	Report provided by Apollo IT Consulting, LLC