

MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 94
Minutes of Meeting of Board of Directors
April 2, 2024

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 April 2, 2024, in accordance with the duly posted notice of meeting, and the roll was called of the duly constituted members of said Board, as follows:

Jerry Rueschhoff, President
John Kessler, Vice President
Roger Olsen, Secretary
Michael Pachulio, Assistant Secretary
Ray Waymel, Assistant Secretary

all of whom were present at the meeting, thus constituting a quorum.

Also attending the meeting were Jon VanderWilt of Costello, Inc. ("Costello"); Michelle Kincer of Storm Water Solutions LP ("SWS"); Creston Minter of H2O Innovation Operation and Maintenance, LLC ("H2O"); Rene Butler, who entered later in the meeting as noted herein, and Jorge Diaz of McLennan & Associates, LP ("McLennan"); Barbara Nussa of Republic Services, Inc. ("Republic"); David Patterson and Monica Saucedo of Assessments of the Southwest, Inc. ("ASW"); Sergeant Ronny Glaze of the Montgomery County Constable's Office ("MCCO"); and Spencer Creed, Gordon Cranner, and Kris Eddlemon of Schwartz, Page & Harding, L.L.P. ("SPH").

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.

MINUTES OF MEETING(S)

The Board next considered approval of the minutes of the Board meetings held February 23, 2024, February 29, 2024, March 5, 2024, and March 14, 2024. After discussion, it was moved by Director Rueschhoff that the minutes of the Board meetings held on February 23, 2024, February 29, 2024, and March 5, 2024, be approved, as written. Director Kessler seconded the motion, which unanimously carried. The Board deferred approval of the minutes of the meeting held on March 14, 2024.

REPORT FROM THE MONTGOMERY COUNTY CONSTABLE'S OFFICE REGARDING SECURITY

Sergeant Glaze next presented and reviewed a security report provided by the MCCO's office for the month of March 2024, a copy of which report is attached hereto as **Exhibit A**. He discussed recent activity within the District and related security matters, including a resident's concern regarding a missing "no trespassing" sign located near the utility easement behind the District. Sergeant Glaze advised that Montgomery County Municipal Utility District No. 119 ("No. 119") has been made aware of the missing sign and is in the process of having it replaced.

Ms. Butler entered the meeting at this time.

Sergeant Glaze addressed the Board regarding the status of purchase of new patrol vehicles to be utilized within the District, and advised that the two (2) new vehicles are expected to be in service next week. He further advised that the two (2) current vehicles that are going out of service will be auctioned, and a credit from the proceeds received will be provided to the District.

Sergeant Glaze exited the meeting at this time.

BOOKKEEPER'S REPORT

Mr. Diaz next presented and reviewed a written Bookkeeper's Report dated April 2, 2024, including the District's Investment Report for the month of March 2024, copies of which are attached hereto as **Exhibit B**. After discussion, it was moved by Director Kessler 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 Olsen seconded the motion, which carried unanimously.

Mr. Craner exited the meeting at this time.

RATIFY BOARD'S PRIOR ACTION REGARDING ENGAGEMENT OF AUDITOR

The Board considered ratifying its prior engagement of an auditor to prepare the District's audit report for the fiscal year ending March 31, 2025, as part of a two year engagement. Following discussion, Director Olsen moved that engagement of McCall Gibson Swedlund Barfoot to prepare the District's audit report for the fiscal year ending March 31, 2025, be ratified and approved in all respects. Director Kessler seconded the motion, which unanimously carried.

REPORT BY REPUBLIC SERVICES, INC.

Ms. Nussa next addressed the Board on behalf of Republic and presented a verbal report. No action was taken by the Board at this time.

STORMWATER MANAGEMENT PROGRAM AND DRAINAGE FACILITIES REPORT

Ms. Kincer then presented and reviewed a Drainage Facilities Report provided by SWS, a copy of which is attached hereto as **Exhibit C**. She advised that the gate to secure alternative access to the drainage channel is expected to be delivered by next week.

A discussion ensued regarding the gate previously installed at the end of the drainage channel. In that regard, the Board requested an additional lock be added to the multi-lock assembly for this gate, and that H2O coordinate with CenterPoint and the pipeline company in an effort to remove some of the extra third-party locks currently attached to the gate and for which the combination is unknown.

Mr. Diaz exited the meeting at this time.

Ms. Kincer next advised that the sinkholes located on Andrew Creek Lane and Chelsea Creek have been repaired, as previously authorized by the Board.

The Board deferred approval of a proposal to remove rip rap from the box culverts located at Spring Trails Bend and Emilee Point Lane, until the next meeting.

Ms. Kincer advised that SWS will prepare a proposal for repair of a sinkhole located at Rene Hills Lane and Spring Trails Park Drive for consideration by the Board at the next meeting.

Director Olsen addressed the Board regarding removal of trees along Turtle Creek by third-parties to allow for access through the wooded areas of the District by all-terrain vehicles to avoid the existing fencing. A discussion ensued regarding the placement of boulders to prevent access to this area. Following discussion, Director Waymel moved that Director Kessler be authorized to coordinate with a contractor to install such boulders, as discussed, at a total cost not to exceed \$5,000. Director Rueschhoff seconded the motion, which unanimously carried.

TAX ASSESSOR/COLLECTOR'S REPORT

Mr. Patterson addressed the Board at this time regarding the Board's recent request for consultants to provide more detailed analysis on the data presented in their respective reports. Ms. Saucedo then presented and reviewed the Tax Assessor/Collector's Report for the month of March 2024, including a delinquent account listing as of March 28, 2024, copies of which are attached hereto as **Exhibit D**. Director Kessler inquired as to how many customers in the District claim a homestead exemption. Mr. Patterson advised that ASW will provide an exemption analysis report at the next meeting. After discussion, it was moved by Director Kessler that the Tax Assessor/Collector's Report be approved and the disbursements identified therein be approved for payment. Director Olsen 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 today's meeting.

RESOLUTION AUTHORIZING ADDITIONAL PENALTY ON DELINQUENT REAL PROPERTY TAXES

The Board considered the adoption of a Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes. Mr. Creed advised that the Board is authorized, pursuant to Section 33.07 of the Texas Tax Code, as amended, to impose, under certain conditions on July 1, an additional penalty not to exceed twenty percent (20%) of the total taxes, penalty and interest due the District on taxes that remain delinquent as of July 1 of the year in which they become delinquent. After discussion, it was moved by Director Rueschhoff, seconded by Director Kessler and unanimously carried, that the Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes, attached hereto as **Exhibit E**, be adopted by the Board.

OPERATIONS REPORT

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

Mr. Minter reported with regard to an appeal of District charges received from customer account no. 43542. He advised that the customer has requested that a late fee totaling \$152.93 be waived on their account. After discussion on the matter and consideration of the relevant facts and circumstances, Director Waymel moved that the customer's request be denied. Director Rueschhoff seconded the motion, which unanimously carried.

Mr. Minter advised that painting of the fire hydrants is complete, and that they have been inspected by Preventive Services LP.

IDENTITY THEFT PREVENTION PROGRAM

The Board then considered review of the District's Identity Theft Prevention Program (the "Program"). In connection therewith, Mr. Minter presented H2O's annual report and advised the Board regarding the District's experience with identity theft during the prior year, current identity theft methods, the types of accounts maintained by the District and the District's business arrangements with other entities. He recommended that no changes be made to the District's Program. After discussion on the matter, the Board concurred that no changes were necessary to the District's Program at this time.

Mr. Minter next advised that H2O is in the process of preparing the Annual Implementation Report regarding the District's Water Conservation Plan, as previously authorized by the Board.

AMENDMENT OF SERVICE CONTRACT WITH OPERATOR; RATE ORDER

Mr. Minter addressed the Board at this time regarding a proposed new form of Operation and Maintenance Agreement (the "Agreement") between the District and H2O, a copy of which is attached hereto as **Exhibit G**. He noted it is not necessary to amend the District's Rate Order in connection with the Agreement. Following discussion, Director Kessler moved that the Board (i) approve the Agreement and authorize the President to execute same on behalf of the Board and the District, subject to the review of same by SPH, and (ii) authorize SPH to accept and acknowledge the associated Texas Ethics Commission ("TEC") 1295 Form. Director Rueschhoff seconded the motion, which unanimously carried.

Mr. Patterson and Ms. Nussa exited the meeting at this time.

CONSUMER CONFIDENCE REPORT

The Board considered authorizing H2O to prepare a draft Consumer Confidence Report ("CCR") for review by the Board. Mr. Creed advised that pursuant to CCR requirements promulgated by the United States Environmental Protection Agency and the Texas Commission on Environmental Quality ("TCEQ"), the District is required to provide a report containing various information regarding the District's water supply to all customers of the District by July 1, 2024. After discussion on the matter, it was moved by Director Pachuillo seconded by Director Kessler and unanimously carried, that H2O be authorized to prepare a draft CCR and SPH be authorized to review same for compliance with the TCEQ's regulatory requirements and its 2024 template.

WATER CONSERVATION PLAN

The Board deferred review of the District's Water Conservation Plan, adoption of a Resolution regarding review of said plan, and authorizing filing of the amended plan with regulatory agencies, until the next meeting.

DROUGHT CONTINGENCY PLAN ("DCP")

Mr. Creed next discussed with the Board the requirements of Title 30, Section 288.30 of the Texas Administrative Code for retail public water suppliers such as the District to review and, if appropriate, revise their DCP no later than May 1, 2024, and every five years thereafter. He further advised that no changes are being recommended to the District's DCP at this time. After discussion, Director Kessler moved that the District adopt the Resolution Regarding Review of Drought Contingency Plan, attached hereto as **Exhibit H**. Director Rueschhoff seconded such motion, which passed unanimously.

RATE ORDER

The Board deferred amendment of the District's Rate Order upon noting that it is not necessary to adjust rates associated with amendment of the District's Agreement with H2O, based upon the recommendation of H2O.

Ms. Saucedo exited the meeting at this time.

ENGINEER'S REPORT

Mr. VanderWilt next presented to the Board a written Engineer's Report, dated April 2, 2024, a copy of which report is attached hereto as **Exhibit I**, relative to the status of various projects within the District.

Mr. VanderWilt provided the Board with an update concerning the Water Plant Ground Storage Tank Replacement and Hydropneumatic Tank Recoating by C3 Constructors, LLC ("C3"), and advised that the District is in receipt of Pay Estimate No. 5 in the total amount of \$13,500, a copy of which is attached to the Engineer's Report. Following discussion, Director Kessler moved that the Board approve payment of Pay Estimate No. 5 to C3. Director Olsen seconded the motion, which unanimously carried.

Discussions ensued regarding the District's five-year capital improvement plan, operating reserves, and issuance of bonds. No action was taken by the Board at this time. The Board requested that future Bookkeeper's Reports reflect the amount of net operating revenues after deducting out the amount of operating funds allocated to the District's share of the wastewater treatment plant improvements project.

STATUS OF CONSTRUCTION OF NEW CONCRETE WASTEWATER TREATMENT PLANT

Mr. VanderWilt next provided the Board with an update concerning the status of construction of the new concrete wastewater treatment plant by No. 119. No action was taken by the Board at this time.

Ms. Kincer exited the meeting at this time.

SPRING TRAILS COMMUNITY ASSOCIATION, INC. ("ASSOCIATION") CONSTRUCTION PROJECTS WITHIN DISTRICT PROPERTY; ASSOCIATION AND/OR RESIDENT COMMUNICATIONS

The Board next considered the approval and/or status of any Association related construction or maintenance projects within District property and resident communications concerning maintenance.

A discussion ensued regarding the status of the Association's plan to install a temporary maintenance shed, as discussed at previous meetings. It was noted that it appears the Association has resolved this issue, plans to build the shed on Association-owned property, and that no further action by the Board is required.

The Board next considered the status of the Association's approval of the Quitclaim Conveyance of Facilities (the "Quitclaim") and First Amendment to Operation, Maintenance and Use Agreement (the "First Amendment") in connection with the community center. In that regard,

Mr. Creed advised that the Quitclaim has been executed and recorded in the real property records of Montgomery County, and that the First Amendment has been fully-executed.

Mr. Creed next advised that a request has been received from a resident for the District to maintain certain trees located on District property behind his home at 27538 Caradoc Springs Court. Following discussion and consideration of the relevant circumstances, Director Kessler moved that the Board determine this request does not require District action under the District's tree trimming policy, and that SPH be directed to inform the resident that they are authorized to trim the trees up to the property line at their expense. Director Rueschhoff seconded the motion, which unanimously carried.

ISSUANCE OF UTILITY COMMITMENTS

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

STATUS OF WEBSITE

The Board next discussed the status of the District's website. No action was taken by the Board at this time.

WORKSHOPS AND/OR PROFESSIONAL DEVELOPMENT PROGRAM

A discussion ensued regarding the workshop currently scheduled to be held in April 2024 in connection with the District's Stormwater Management Program, as well as the proposed scheduling of a workshop in May 2024 to be conducted by the fire marshal. Director Kessler advised that he will confirm with SWS regarding scheduling of the Stormwater Management Program workshop on Thursday, April 25, 2024, at 9:00 a.m. The Board discussed scheduling a workshop to be conducted by SPH in July 2024.

EMERGENCY RESPONSE PLAN ("ERP")

The Board next discussed the status of recommended changes to the District's ERP. No action was taken by the Board at this time. It was noted that this item will be discussed in Executive Session.

FUTURE DISTRICT PROJECTS AND INITIATIVES

The Board deferred periodic review of consultant contracts and evaluation forms until a future meeting.

The Board next discussed the status of conversion of street lights being maintained by the District to LED lights. No action was taken at this time.

ATTORNEY'S REPORT

The Board next considered the Attorney's Report. In that regard, Mr. Creed presented to and reviewed with the Board a report from Municipal Risk Management Group, LLC ("MRMG") concerning arbitrage and yield restriction regulations relative to the District's outstanding bonds, a copy of which report is attached hereto as **Exhibit J**. In connection with the District's Unlimited Tax Refunding Bonds, Series 2019, he advised that a fifth year arbitrage rebate report is due, as reflected in the report. He then presented for the Board's consideration an engagement letter for preparation of the rebate report from Arbitrage Compliance Specialists, Inc. ("ACS"), a copy of which engagement letter is included with **Exhibit J**. After discussion, Director Kessler moved that the Board (i) approve the engagement letter from ACS for arbitrage rebate services, (ii) the President be authorized to execute same on behalf of the Board and the District, (iii) the Board approve the District's acceptance of the TEC Form 1295 relative to the engagement letter, and (iv) that the Board authorize SPH to acknowledge the District's receipt of the TEC Form 1295. Director Olsen seconded the motion, which unanimously carried.

POSSIBLE FUTURE AGENDA ITEMS

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

EXECUTIVE SESSION

The President announced that the Board was entering into executive session pursuant to Texas Government Code Section 551.076 at 2:11 p.m., to consider the status of any recommended changes to the District's ERP. At this time all those present, with the exception of the Board, Mr. Creed, Ms. Eddlemon, Mr. VanderWilt, and Mr. Minter exited the meeting.


At 2:54 p.m., the President announced that the Board would reconvene in Open Session. Following discussion, Director Pachulo moved that the Board approve the revised ERP, subject to the incorporation of comments discussed in Executive Session. Director Kessler seconded the motion, which unanimously carried.

The President next announced that the Board was entering into executive session pursuant to Texas Government Code Section 551.071 at 2:54 p.m., to consider consultation with the attorney in connection with potential legal actions by or on behalf of the District. At this time all those present, with the exception of the Board, Mr. Creed, and Ms. Eddlemon exited the meeting.

At 3:20 p.m., the President announced that the Board would reconvene in Open Session. No action was taken by the Board at this time.

ADJOURN

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



Roger W. Olsen, Secretary
Board of Directors

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LIST OF EXHIBITS

EXHIBIT A	Security Report
EXHIBIT B	Bookkeeper's Report
EXHIBIT C	Drainage Facilities Report
EXHIBIT D	Tax Assessor/Collector's Report
EXHIBIT E	Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes
EXHIBIT F	Operations Report
EXHIBIT G	Operation and Maintenance Agreement
EXHIBIT H	Resolution Regarding Review of Drought Contingency Plan
EXHIBIT I	Engineer's Report
EXHIBIT J	Report from Municipal Risk Management Group, LLC; Engagement Letter from Arbitrage Compliance Specialists, Inc.