

**MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 94**  
**Minutes of Meeting of Board of Directors**  
**February 6, 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 February 6, 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"); Justin Klump and Michelle Kincer of Storm Water Solutions LP ("SWS"); Creston Minter of H2O Innovation Operation and Maintenance, LLC ("H2O"); Rene Butler of McLennan & Associates, LP ("McLennan"); Barbara Nussa of Republic Services, Inc. ("Republic"); Delia Yanez of Assessments of the Southwest, Inc. ("ASW"); Sergeant Joshua Orr and Captain Michael Atkins of the Montgomery County Constable's Office ("MCCO"); and Spencer Creed 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**

The Board next considered approval of the minutes of the Board meeting held January 10, 2024. A revision was noted to page one (1) of said minutes. After discussion, it was moved by Director Olsen that the minutes of the Board meeting held on January 10, 2024, be approved, as revised. Director Kessler seconded the motion, which unanimously carried.

**REPORT FROM THE MONTGOMERY COUNTY CONSTABLE'S OFFICE REGARDING SECURITY**

Sergeant Orr next presented and reviewed a security report provided by the MCCO's office for the month of January 2024, a copy of which report is attached hereto as **Exhibit A**. He discussed recent activity within the District and related security matters, and the status of purchase

of new patrol vehicles to be utilized within the District. In that regard, he advised that MCCO is in possession of the vehicles, but is awaiting receipt and installation of the vehicle equipment. He advised this is expected to be completed by mid-March.

A discussion next ensued regarding the proposed credit to be provided to the District for the salvage value of the vehicles previously replaced in approximately 2018, and the current vehicles (purchased in approximately 2018) that are about to be decommissioned. Sergeant Orr advised that funds from the auctioned vehicle can either be credited to future District invoices, or a check in the amount of the proceeds received can be delivered to the District. Following discussion, Director Olsen moved that the funds be utilized by crediting future invoices. Director Kessler seconded the motion, which unanimously carried. Sergeant Orr advised he would discuss this as well as the disposition of the other vehicles with Chief Deputy Furches and report back to Director Rueschhoff regarding same.

Discussions ensued regarding billing for periods of reduced coverage, and availability of data for use of contract deputies on matters located outside the District. Following discussion, the Board requested that these items be removed from future agendas.

Captain Atkins next addressed the Board regarding services provided by Flock Safety ("Flock") in connection with the installation of motion-activated license plate readers within the District. Following discussion, the Board requested that Flock provide a proposal for review and consideration.

Mr. Minter next advised that fence pickets have been kicked in at Lift Station No. 2, and that this is the third occurrence within a three (3) month period. He advised that H2O will file a police report for this incident, and proposed the installation of security cameras and additional signage. No action was taken by the Board at this time.

Sergeant Orr and Captain Atkins exited the meeting at this time.

#### **REPORT BY REPUBLIC SERVICES, INC.**

Ms. Nussa next addressed the Board on behalf of Republic and presented a Customer Service Report, a copy of which is attached hereto as **Exhibit B**. She discussed a service issue at 2350 Morgan Ridge Lane in which the customer became upset with the driver for not servicing their recycling cart that was filled with non-recyclable materials. Following discussion, the Board concurred that Republic's solid waste collection and recycling protocol be redistributed to District customers and that a notice be distributed through the Community Association (the "Association") notifying customers that Republic does not service additional containers.

Ms. Nussa next addressed the Board regarding the solid waste collection and recycling workshop scheduled to be held on February 23, 2024. She requested that each Board member provide her with a question related to services provided by Republic they would like to be addressed at the workshop. 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**, as well as two (2) proposals to repair sinkholes located at (i) Chelsea Creek and Spring Trails Bend, and (ii) between a manhole and outfall pipe near Andrew Creek Lane, copies of which proposals are included with **Exhibit C**. Following discussion, Director Olsen moved that SWS be authorized to televise these lines and provide a report at the next meeting, along with recommendations on how to address these issues. Director Rueschhoff seconded the motion, which unanimously carried.

Ms. Kincer next addressed the Board regarding the status of securing alternative access to the drainage channel through the installation of boulders and a pipe gate. In that regard, she advised that the gate is being fabricated, and noted that no excess boulders will be available upon completion of the project, as previously anticipated.

Director Kessler inquired about the status of replacement of the damaged "no trespassing" sign located along the drainage channel, as authorized by the Board at the December meeting. Ms. Kincer advised she would look into this matter and report back to the Board.

The Board considered the status of the District's Stormwater Management Program ("SWMP"). In that regard, Mr. Klump presented to and reviewed with the Board the Year 5 Annual Report and Training Summary (the "Summary"), the Phase II (Small) MS4 Annual Report (the "Annual Report"), and a proposed utility bill insert. Copies of the Summary, Annual Report, and utility bill insert are attached hereto as **Exhibit D**. After discussion, Director Rueschhoff moved that the Annual Report (including the utility bill insert) be approved as presented, and that the President be authorized to execute the Annual Report on behalf of the Board and the District. Director Kessler seconded said motion, which carried unanimously.

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

Ms. Yanez next presented and reviewed the Tax Assessor/Collector's Report for the month of January 2024, including a delinquent listing as of February 1, 2024, copies of which are attached hereto as **Exhibit E**. 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 CONCERNING DEVELOPED DISTRICT STATUS FOR 2024 TAX YEAR**

Mr. Creed reminded the Board that the taxing procedures applicable to a particular district will depend, in part, upon whether it is determined to be a "Developed District" pursuant to Texas Water Code Section 49.23602. He then reviewed with the Board a Resolution Concerning Developed District Status for the 2024 Tax Year, attached hereto as **Exhibit F**. Following discussion, upon motion made by Director Olsen, seconded by Director Kessler, and unanimously carried, the attached Resolution was adopted by the Board.

Ms. Yanez exited the meeting at this time.

**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 G**, and reviewed same with the Board. He advised that approximately twenty (20) hydrants remain to be repainted by SMJ Equipment, LLC, as previously authorized by the Board.

Mr. Minter next advised that on January 26, 2024, the power supply for the well motor located at water plant no. 1 failed, and that H2O is in the process of filing an insurance claim for the wiring repair, which was performed at an estimated cost of \$11,000. Following discussion, Director Olsen moved that replacement of the wire be ratified and approved in all respects. Director Rueschhoff seconded the motion, which unanimously carried.

A discussion re-ensued regarding the proposed installation of security cameras at lift station no. 2. Following discussion, Director Olsen moved that H2O be authorized to install two (2) security cameras at lift station no. 2. Director Rueschhoff seconded the motion, which unanimously carried.

**REVIEW OF DROUGHT CONTINGENCY PLAN AND WATER CONSERVATION PLAN**

Mr. Creed 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 Drought Contingency Plan (the "DCP") and Water Conservation Plan ("WCP") not later than May 1, 2024, and every five years thereafter. He requested that the Board consider authorizing H2O and Costello to review the District's DCP and WCP for any required updates. After discussion, Director Olsen moved that H2O and Costello be authorized to review the District's DCP and WCP for any required updates. Director Rueschhoff seconded the motion, which unanimously carried.

**ENGINEER'S REPORT**

Mr. VanderWilt next presented to the Board a written Engineer's Report, dated February 6, 2024, a copy of which report is attached hereto as **Exhibit H**, relative to the status of various projects within the District. He presented and reviewed a schedule for replacement of the Ground

Storage Tank by C3 Constructors, LLC, as well a proposal provided by Tolunay-Wong Engineers, Inc. ("TWE") for geotechnical consulting services in connection with such project, copies of which are included as part of **Exhibit H**. Following discussion, Director Kessler moved that the Board approve the proposal provided by TWE, and authorize SPH to accept and acknowledge the associated Texas Ethics Commission 1295 Form. Director Pachulo seconded the motion, which unanimously carried.

Director Waymel advised that he will revise the blurb currently on the website that discussed the schedule of the tank replacement project.

Director Rueschhoff noted that he would like to see progress made on the proposed project to remove debris from the storm sewer system.

**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 Montgomery County Municipal Utility District No. 119. No action was taken by the Board at this time.

Ms. Kincer exited the meeting at this time.

**RESOLUTION ADOPTING PREVAILING WAGE RATE SCALE FOR CONSTRUCTION PROJECTS**

Mr. Creed next presented to the Board for review and approval a Resolution Adopting Prevailing Wage Rate Scale for Construction Projects (the "Resolution"), attached hereto as **Exhibit I**. He informed the Board that the District previously adopted the Department of Labor's applicable wage rates for the Montgomery County area, which have recently been updated. After discussion and consideration of the proposed Resolution, Director Pachulo moved that the Board adopt the Resolution with Exhibit "A" to same reflecting the updated wage rates published by the Department of Labor for the Montgomery County area and that the President and Secretary be authorized to execute same on behalf of the Board and the District. Director Kessler seconded said motion, which unanimously carried.

**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 a revised proposal received from the Association to install a temporary maintenance shed on District-owned property, a copy of which is attached hereto as **Exhibit J**. Following a lengthy discussion, Director Rueschhoff moved that the Board deny the request to install the temporary maintenance shed at the location proposed by the Association as

presented, and that Director Olsen be authorized to further discuss this matter with the Association in an attempt to identify an alternative location. Director Waymel seconded the motion, which unanimously carried.

The Board next considered a request by the Association to authorize use of an all-terrain vehicle on District property such as the drainage channel. Following discussion, and in recognition of the confusion this may cause with selective enforcement by the MCCO, Director Rueschhoff moved that the Board deny the request. Director Olsen seconded the motion, which unanimously carried.

Ms. Nussa exited the meeting during the above discussion.

### **ISSUANCE OF UTILITY COMMITMENTS**

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

### **BOOKKEEPER'S REPORT**

Ms. Butler next presented and reviewed a written Bookkeeper's Report dated February 6, 2024, including the District's Investment Report for the month of January 2024, copies of which are attached hereto as **Exhibit K**. 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.

Ms. Butler next presented for the Board's review a draft Operating Budget for the District's fiscal year ending March 31, 2025, a copy of which is attached to the Bookkeeper's Report. She reviewed with the Board the budgetary process and provision of comments on the draft budget from consultants and directors. No action was taken by the Board at this time.

### **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 workshops currently scheduled to be held on February 23, 2024, related to solid waste collection and recycling procedures, and on February 29, 2024, related to general bond issuance procedures. It was noted that a workshop related to the District's SWMP is scheduled to be held in April 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.

Mr. Klump exited the meeting at this time.

## **FUTURE DISTRICT PROJECTS AND INITIATIVES**

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

The Board next considered review of the Operation, Maintenance and Use Agreement Relating to Recreational Sites and Facilities between the District and the Association (the "Agreement"), ownership of property subject to the Agreement, conveyance of title to such property, and approval of any necessary amendments to the Agreement. Mr. Creed then presented and reviewed with the Board (i) a Resolution Declining Ownership of Spring Trails Community Association Community Center (the "Resolution"), (ii) a Quitclaim Conveyance of Facilities (Spring Trails Community Association Community Center) (the "Quitclaim"), and (iii) First Amendment to Operation, Maintenance and Use Agreement Relating to Recreational Sites and Facilities (the "First Amendment"), copies of which are attached hereto **Exhibit L**. Mr. Creed noted these documents have been prepared in an effort to address the Association's stated concerns about clarifying title ownership to the community center building and related issues. Following discussion, Director Kessler moved that the Board adopt the Resolution, approve the Quitclaim, and approve the First Amendment, and that the President be authorized to execute such documents subject to their acceptance by the Association in substantially the form submitted. Director Rueschhoff seconded the motion, which unanimously carried.

Ms. Butler and Ms. Eddlemon exited during the discussion above.

## **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, be authorized to prepare the required information and submit same to the Comptroller for inclusion in the Special Purpose District Public Information Database. Director Rueschhoff seconded the motion, which unanimously carried.

## **RENEWAL OF DISTRICT INSURANCE POLICIES**

The Board considered renewal of the District's insurance coverages. Mr. Creed advised the Board that, as requested at the previous meeting, SPH requested a renewal proposal from McDonald & Wessendorff ("McDonald"), a copy of which is attached hereto as **Exhibit M**. He advised the Board that the District's current insurance policies are due to expire on March 31, 2024. Following discussion, Director Kessler moved that the Board accept the renewal insurance proposal, and authorize the President to execute same on behalf of the Board and the District. Director Pachulo seconded the motion, which unanimously carried.

## **ATTORNEY'S REPORT**

The Board next considered the Attorney's Report. Mr. Creed advised that he had nothing further of a legal nature to report other than those items which were previously addressed in the meeting.

## **EXECUTIVE SESSION**

The Board determined it would not be necessary to enter into Closed Session pursuant to Texas Government Code, Sections 551.071 and 551.076.

## **POSSIBLE FUTURE AGENDA ITEMS**

The Board next considered additional items for placement on future agendas. A discussion ensued regarding the amount the District pays for street lights and proposed conversion of same to LED lights. Director Rueschhoff advised he is attempting to confirm how much of the District's monthly bill for this account represents light pole maintenance and how much represents electricity cost. Mr. Creed advised that SPH would request Acclaim Energy Advisors provide this information.

Mr. Minter exited the meeting at this time.

## **ADJOURN**

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

  
Secretary  
Board of Directors



## LIST OF EXHIBITS

EXHIBIT A	Security Report
EXHIBIT B	Customer Service Report (Republic Services, Inc.)
EXHIBIT C	Drainage Facilities Report; Proposals
EXHIBIT D	Year 5 Annual Report and Training Summary; Phase II (Small) MS4 Annual Report; proposed utility bill insert
EXHIBIT E	Tax Assessor/Collector's Report
EXHIBIT F	Resolution Concerning Developed District Status for the 2024 Tax Year
EXHIBIT G	Operations Report
EXHIBIT H	Engineer's Report; proposal provided by Tolunay-Wong Engineers, Inc.
EXHIBIT I	Resolution Adopting Prevailing Wage Rate Scale for Construction Projects
EXHIBIT J	Request from Spring Trails Community Association, Inc.
EXHIBIT K	Bookkeeper's Report
EXHIBIT L	Resolution Declining Ownership of Spring Trails Community Association Community Center; Quitclaim Conveyance of Facilities (Spring Trails Community Association Community Center); First Amendment to Operation, Maintenance and Use Agreement Relating to Recreational Sites and Facilities
EXHIBIT M	Proposal from McDonald & Wessendorff