

**MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 94**  
**Minutes of Meeting of Board of Directors**  
**September 3, 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 September 3, 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, with the exception of Director Rueschhoff, thus constituting a quorum.

Also attending the meeting were Jon VanderWilt of Pape-Dawson Consulting Engineers, LLC ("Pape-Dawson"); Creston Minter of H2O Innovation Operation and Maintenance, LLC ("H2O"); Jorge Diaz of McLennan & Associates, LP ("McLennan"); Barbara Nussa of Republic Services, Inc. ("Republic"); Austin Ficken of Masters Advisors LLC ("Masterson"); Monica Saucedo of Assessments of the Southwest, Inc. ("ASW"); Michelle Kincer of Storm Water Solutions LP ("SWS"); Sergeant Joshua Orr of the Montgomery County Constable's Office ("MCCO"); Grady Turner of Quiddity Engineering, LLC ("Quiddity"), who entered later in the meeting as noted herein; and Gordon Cranner and Kris Eddlemon of Schwartz, Page & Harding, L.L.P. ("SPH").

The Vice 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 August 1, 2024 and August 6, 2024. After discussion, it was moved by Director Olsen that the minutes of the Board meetings held on August 1, 2024 and August 6, 2024, be approved, as written. 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 August 2024, a copy of which report is attached hereto as **Exhibit A**. He discussed recent activity within the District and related security matters, including the status of auction of the vehicles that are going out of service.

Sergeant Orr exited the meeting at this time.

**BOOKKEEPER'S REPORT**

Mr. Diaz next presented and reviewed a written Bookkeeper's Report dated September 3, 2024, including the District's Investment Report for the month of August 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 Waymel seconded the motion, which carried unanimously. The Board deferred amendment of the District's operating budget until the next regularly scheduled meeting.

**REPORT BY REPUBLIC SERVICES, INC.**

Ms. Nussa next addressed the Board on behalf of Republic and presented a verbal report. It was noted that, at the previous meeting, the Board authorized SPH to send a letter to the resident who disposed of eleven (11) paint cans in their trash receptacle. Mr. Cranner advised that the letter has been prepared and mailed to the resident, along with a copy of the District's waste acceptance protocol. 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 noted that the proposals included in her report will be addressed later in the meeting, under the Engineer's Report. Director Kessler inquired as to when the pipe gate located at the drainage channel will be repaired. Ms. Kincer advised that she was unaware the gate is in need of repair and will look into the matter and report back to the Board.

Director Kessler next advised that several of the boulders that were installed by SWS at the drainage channel have been rolled down into the creek by area youth. He further advised that it appears the size of the boulders that were installed do not meet the specifications previously approved, and that he will provide Ms. Kincer with a copy of the proposal that was approved by the Board. Ms. Kincer advised that she will look into this matter and report back to the Board.

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

Ms. Saucedo then presented and reviewed the Tax Assessor/Collector's Report for the month of August 2024, including a delinquent account listing as of August 29, 2024, copies of which are attached hereto as **Exhibit D**. After discussion, it was moved by Director Pachuiilo that the Tax Assessor/Collector's Report be approved and the disbursements identified therein be approved for payment. Director Waymel seconded the motion, which carried unanimously.

## **DELINQUENT TAX REPORT**

In connection with the District's delinquent tax collections, Mr. Cranner presented to and reviewed with the Board a Delinquent Tax Report provided by Perdue, Brandon, Fielder, Collins & Mott, L.L.P. ("Perdue") dated September 3, 2024, a copy of which is attached hereto as **Exhibit E**. No action was taken by the Board at this time.

Mr. Turner entered the meeting at this time.

## **FINANCIAL ADVISOR'S RECOMMENDATION CONCERNING THE DISTRICT'S PROPOSED 2024 TAX RATE**

Mr. Ficken next presented the Board with Masterson's recommendation regarding the proposed 2024 debt service tax rate and maintenance tax rate, a copy of which is attached hereto as **Exhibit F**. He advised that Masterson is recommending a proposed 2024 debt service tax rate of \$0.435. There was next a discussion regarding the maintenance tax. The Board concluded that a proposed 2024 maintenance tax rate of \$0.24 would provide for future District costs. There next followed a discussion concerning the requirements for notice of the District's intention to adopt a 2024 tax rate. Mr. Cranner advised that, pursuant to §49.236 of the Texas Water Code, as amended, the District is required to provide a notice containing certain tax-related information in connection with each meeting at which the adoption of a tax rate will be considered. Mr. Cranner further advised that the information to be included in the notice is set forth in the Water Code and includes the proposed tax rate to be adopted. He advised that the District must provide the notice by either (1) publishing it at least once in a newspaper having general circulation in the District at least seven days before the date of the meeting at which the tax rate will be adopted, or (2) mailing it to each owner of taxable property in the District, at the address shown on the most recently certified tax roll of the District, at least 10 days before the date of the meeting. After further discussion on the matter, Director Kessler moved that the Board accept the financial advisor's recommendation of a proposed 2024 debt service tax rate of \$0.435 and a proposed maintenance tax rate of \$0.24, and that the District's tax assessor-collector be authorized to publish notice of the District's intention to adopt a 2024 tax rate at its October meeting in the form and at the time required by law. Director Olsen seconded said motion, which unanimously carried.

## **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 a lift station pump is in need of repair or replacement. Following

discussion, Director Kessler moved that the pump be repaired in the amount of approximately \$9,700. Director Olsen seconded the motion, which unanimously carried.

Mr. Diaz exited the meeting at this time.

Mr. Minter next advised that, at the next regularly scheduled meeting, he will provide a proposal to conduct a fire hydrant survey within the District.

Mr. Minter next advised that the District was on interconnect with Montgomery County Municipal Utility District No. 119 ("No. 119") due to No. 119 experiencing a well failure, and that the District provided approximately 16.1 million gallons of water to No. 119. Director Kessler expressed concern about the impact this had on the well, and noted that he requested a well inspection report. Mr. Minter advised that a report is being prepared by GM Services and that he anticipates it will be available for review prior to the special meeting scheduled to be held on September 12, 2024.

Ms. Saucedo exited the meeting at this time.

Mr. Minter next advised that H2O is in the process of obtaining proposals to update security equipment located at District facilities.

#### **STATUS OF EMERGENCY WATER SUPPLY CONTRACT WITH NO. 119**

The Board next discussed the status of the Emergency Water Supply Contract (the "Contract") between the District and No. 119. Discussions ensued regarding the cost to the District to produce 1,000 gallons of water, whether the price to be paid for water delivered pursuant to the Contract should be amended, and payment to the District by No. 119 "in-kind" for the amount of water supplied. Following discussion, Director Kessler moved that Pape-Dawson be authorized to calculate the cost to produce 1,000 gallons of water, and that H2O be authorized to approach No. 119 and inquire whether it would be willing repay the District "in-kind" for the water utilized. Director Olsen seconded the motion, which unanimously carried.

Ms. Nussa exited the meeting at this time.

#### **STATUS OF CONSTRUCTION OF NEW CONCRETE WASTEWATER TREATMENT PLANT**

Mr. Turner next addressed the Board on behalf of Quiddity and provided an update concerning the status of construction of the new concrete wastewater treatment plant by No. 119 on behalf of itself and the District. In that regard, he presented and reviewed a Project Status Memo, a copy of which is attached hereto as **Exhibit H**. The Board asked several questions, to which Mr. Turner responded. Following discussion, the Board thanked Mr. Turner for his presentation. No action was taken by the Board at this time.

Ms. Kincer exited the meeting at this time.

## ENGINEER'S REPORT

Mr. VanderWilt next presented to the Board a written Engineer's Report, dated September 3, 2024, a copy of which report is attached hereto as Exhibit I, relative to the status of various projects within the District. He 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 contractor has completed the project and is in the process of addressing punch list items. Mr. VanderWilt further advised that the District is in receipt of Pay Estimate No. 10 in the amount of \$15,300, 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. 10 as recommended. Director Olsen seconded the motion, which unanimously carried.

The Board deferred adoption of a Resolution Authorizing Application to the Texas Commission on Environmental Quality Requesting Approval of Change in Use of Expenditure of Bond Proceeds and Construction Funds (regarding the water plant electrical system replacement project).

Mr. Turner exited the meeting at this time.

Mr. VanderWilt next advised that Pape-Dawson is receipt of proposals from SWS and Solid Bridge Construction to repair erosion in and around the backslope interceptor structures located along the drainage channel and to refresh the rip rap located at the end of the drainage channel. He further advised that Pape-Dawson is in the process of obtaining additional proposal(s) for consideration by the Board. No action was taken by the Board at this time.

In connection with construction of the new concrete wastewater treatment plant by No. 119. Mr. VanderWilt advised that the District is in receipt of Pay Estimate No. 4 from No. 119, in the total amount of \$807,901.21, a copy of which is included as part of the Engineer's Report. Following discussion, Director Kessler moved that the Board concur in No. 119's payment of Pay Estimate No. 4, as presented and as recommended by Mr. VanderWilt. Director Olsen seconded the motion, which unanimously carried.

Director Kessler addressed the Board at this time regarding his observations within the District, including a hanging tree limb over a drainage ditch, a missing District sign that was recently located, and ATV tracks located within an unauthorized area of the District. Following discussion, Director Kessler moved that Trees by Frank be authorized to remove the portion of the tree hanging over the drainage ditch, at a cost not to exceed \$300. Director Olsen seconded the motion, which unanimously carried. The Board requested that items related to re-installation of the sign and extension of the barrier cable be included on the agenda for the special meeting scheduled to be held on September 12, 2024.

Mr. Ficken and Mr. Minter exited the meeting at this time.

Director Pachulo made an inquiry to Mr. VanderWilt with regard to Pape-Dawson's fee of \$31,600 for design fees in connection with rehabilitation of Ground Storage Tank No. 1. Mr.

VanderWilt advised that this fee is for the preparation of plans and specifications for this project, and that he will provide Director Pachuillo with a copy of same for review.

**SPRING TRAILS COMMUNITY ASSOCIATION (THE "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. Mr. Cranner advised that SPH is in the process of preparing a form of Resolution to implement a policy establishing criteria for tree removal from District maintained property, as well as a form of agreement in connection with same. No action was taken by the Board at this time.

**TOUCHSTONE DISTRICT SERVICES**

The Board next discussed the status of the District's website. A discussion ensued regarding the proposals provided by Touchstone District Services, LLC ("Touchstone") presented at the previous meeting. Following discussion, Director Waymel moved that the Board authorize notice of termination of the District's contract with Off Cinco, LLC, and that an item related to approval of the proposals for website and compliance maintenance, as well as the establishment of director email accounts, be included on the agenda for the September 12, 2024, Board meeting. Director Kessler seconded the motion, which unanimously carried.

**EROSION REPAIR(S)**

A discussion re-ensued regarding the repair of erosion in and around the backslope interceptor structures located along the drainage channel and to refresh the rip rap located at the end of the drainage channel (collectively, the "Projects"). In that regard, Mr. VanderWilt advised that the District is in receipt of a proposal from Better Deal Lawns, LLC in the total amount of \$18,300 for the Projects, a copy of which is attached to the Engineer's Report (**Exhibit I**). Following discussion, Director Kessler moved that the Board approve the proposal for work to be performed by Better Deal Lawns, LLC. Director Olsen seconded the motion, which unanimously carried.

**WORKSHOPS AND/OR PROFESSIONAL DEVELOPMENT PROGRAM**

A discussion ensued regarding the workshops scheduled to be held on September 12, 2024, by H2O, and in October related to exercise of the District's Emergency Response Plan. No action was taken by the Board at this time.

**FUTURE DISTRICT PROJECTS AND INITIATIVES**

The Board next considered periodic review of consultant contracts and evaluation forms. Director Olsen moved that the Board withdraw the evaluation form that was intended to be utilized by members of the Board. Director Kessler seconded the motion, which unanimously carried.

**ATTORNEY'S REPORT**

The Board next considered the Attorney's Report. In connection therewith, Mr. Craner advised that the matter concerning unauthorized construction of the building on District owned property and status of communications with the Association concerning same will be discussed in executive session.

**EXECUTIVE SESSION**

The Vice President announced that the Board was entering into executive session pursuant to Texas Government Code Section 551.171 at 3:20 p.m., concerning item 18(b) on the agenda. At this time all those present, with the exception of the Board, Mr. Craner, Ms. Eddlemon, and Mr. VanderWilt exited the meeting.

At 4:05 p.m., the Vice President announced that the Board would reconvene in Open Session. A discussion ensued regarding unauthorized construction on District owned property. Following discussion, Director Kessler moved that SPH be authorized to contact the attorney for the Association to provide notice of the District's intent to engage counsel to obtain appropriate relief and removal of the building. Director Pachulo seconded the motion, which carried with Directors Kessler, Olsen, and Pachulo voting in favor of the motion, and Director Waymel abstaining from the vote.

**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.

**ADJOURN**

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

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Roger W. Olsen, Secretary  
Board of Directors

## 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	Delinquent Tax Report
EXHIBIT F	2024 Tax Rate Recommendation
EXHIBIT G	Operations Report
EXHIBIT H	Project Status Memo provided by Quiddity Engineering, LLC
EXHIBIT I	Engineer's Report