

**MINUTES OF MEETING OF BOARD OF DIRECTORS OF
NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1**

November 22, 2016

THE STATE OF TEXAS §
 §
COUNTIES OF TRAVIS §
 AND WILLIAMSON §

A special meeting of the Board of Directors of North Austin Municipal Utility District No. 1, open to the public, was held on November 22, 2016, at the Rattan Creek Community Center, 7617 Elkhorn Mountain Trail, Austin, Texas, pursuant to notice duly given in accordance with law. A copy of the Certificate of Posting of said Notice is attached hereto as **Exhibit "A"**.

The roll was called of the members of the Board, to-wit:

Alan McNeil	-	President
Donald G. Conklin	-	Vice President
Jo Jones	-	Secretary
Keith Collins	-	Treasurer
Kim Green	-	Assistant Secretary/Treasurer

and all of said Directors were present, except for Director Collins, thus constituting a quorum. Also in attendance at the meeting were Jim and Diana Sagnes with Sage Management Services; Andrew Hunt with Crossroads Utility Services; David Malish with Murfee Engineering Company, Inc.; Kevin Flahive with Armbrust & Brown, PLLC; Will Washington, President of the Rattan Creek Neighborhood Association; Greg Cooper, Marc Hirst and Danny Miller on behalf of Continental Properties; and Rachel Beaulieu, a resident of the District.

Director McNeil called the meeting to order at 6:03 p.m. and stated that the Board would first canvass the returns of the November 8, 2016 director election. Mr. Flahive distributed the official results from Travis and Williamson Counties to the Board members. The Board determined that Rachel Beaulieu received the most votes, 914, for Place 1, and each of Directors Jones and Green, who were unopposed, received the most votes for Places 3 and 5, respectively. Upon motion by Director McNeil and second by Director Conklin, the Board voted unanimously to approve the Order Canvassing the Returns and Declaring the Results of North Austin Municipal Utility District No. 1 November 8, 2016 Director Election, attached as **Exhibit "B"**.

Mr. Flahive then administered the Oath of Office to Ms. Beaulieu, Director Jones and Director Green. Upon motion by Director McNeil and second by Director Conklin, the Board voted unanimously to approve the Statements of Elected/Appointed Officers and Oaths of Office for Directors Beaulieu, Jones and Green, attached as **Exhibit "C"**.

Director McNeil then discussed the election of officers with the other Board members. Upon motion by Director McNeil and second by Director Jones, the Board voted unanimously to elect Director McNeil as President, Director Conklin as Vice President, Director Jones as Secretary, Director Green as Treasurer, and Director Beaulieu as Assistant Secretary/Treasurer.

The Board then discussed modifications to be made to the District Registration Form. Upon motion by Director Conklin and second by Director McNeil, the Board voted unanimously

to include Director Beaulieu's information, substitute Mr. Hunt for Gary Spoons as the District Manager contact, and include information for Marc Marroquin d/b/a Premier Recreation Management Services and Richard Fadal with TexaScapes, Inc., attached as **Exhibit "D"**

Director McNeil stated the next item to come before the Board was to consider approval and acceptance of the Water Lines Easement from CalAtlantic Homes of Texas, Inc., attached as **Exhibit "E"**. Mr. Flahive discussed the content of the easement with the Board, pointing out that the District has no obligation to restore the easement tract in the event it must utilize the easement to repair or maintain the water line. Upon motion by Director Conklin and second by Director Jones, the Board voted unanimously to approve and accept the Water Lines Easement as proposed.

The Board next considered approval of a proposal from C & C Groundwater Services in the amount of \$15,533.73 to repair the water well in Rattan Creek Park. Mr. Hunt referred the Board to his report and the proposal, attached as **Exhibit "F"**. He and Mr. Malish discussed with the Board their inspection of the water well with C & C Groundwater Services staff the prior week, stating that the motor and the pump needed to be replaced and they found no signs of electrical problems or failures due to improper installation. Mr. Hunt and Mr. Malish recommended approval of the proposal. Mr. Malish stated there would be a few additional water well related items to come before the Board at the December or January meeting, including the installation of a new meter for the well. Upon motion by Director Conklin and second by Director Green, the Board voted unanimously to approve the proposal. Director Conklin stated that the \$5,000/year sinking fund for maintenance and repair of the water well should be removed from the District's 2016-2017 budget.

Director McNeil stated the Board would next discuss and consider taking any necessary action regarding the Springs and Lakeline development, including Continental Properties' request for a waiver from the District's requirement that the hot water heaters in the multifamily units utilize gas utility service instead of electrical utility service. Mr. Flahive discussed his research findings with the Board, stating that the subject requirement remained in the City of Austin's Plumbing Code, as amended, in both Section 501.2, which incorporates Section R403.5.5 of the City of Austin's Energy Code, as amended, by reference, as well as Section 501.4. Mr. Cooper discussed with the Board that if the requested variance was not granted, his firm would install two electrical hot water heaters, each utilizing less than 3500 wats, in each multifamily unit in order to comply with an exception from the requirement that gas hot water heaters be installed, which he contended would be less efficient than the single electric water heater that would be installed in each multifamily unit if the variance was granted. Mr. Cooper stated the impact of the Board's denial of the variance request on the budget for the project would be approximately \$400,000 to \$500,000. Director Conklin stated that development of the site as soon as possible would be beneficial to the District from a tax base standpoint, but questioned the District's election to adopt the City of Austin's Plumbing Code, as amended, only to grant variances from the requirements of the code. He discussed the differences in the circumstances of the present case and the Broadstone project for which the Board had granted a similar variance request in January 2015. Director Conklin stated that the Board should grant or deny the request on its merits. He stated that he found the course of events and errors made by the gas utility provider that led to the request a compelling hardship. Mr. Flahive then discussed with the Board that if it were to elect to grant the requested variance, that it take action at the meeting to do so, with conditions, and then prepare and approve a written resolution approving the variance once those conditions were met, as the Board had done with the Broadstone project. After further discussion and upon motion by Director Conklin and second by Director Green, the Board voted unanimously to approve a variance from Sections

501.2 and 501.4 of the City of Austin's Plumbing Code, as amended, as adopted by the District pursuant to the "North Austin Municipal Utility District No. 1 Rules Governing Water and Wastewater Services" effective March 21, 2007, contingent upon: (i) Continental Properties' payment of all District expenses relating to the grant of the variance; (ii) Continental Properties' delivery of written correspondence, in form and content acceptable to the Board, from City of Austin Assistant City Manager Robert Goode, who oversees Austin Water Utility, or another City of Austin representative acceptable to the Board, stating that the District's grant of the variance does not constitute a breach of the "Agreement Concerning Creation and Operation of North Austin Municipal Utility District No. 1," as amended, or any other agreement between the City of Austin and the District; and (iii) the City of Austin maintains the position stated in the written correspondence referenced in clause (ii) above. The Board directed Mr. Flahive to add an item to the District's December 19 agenda for approval of a written resolution approving the variance, should Continental Properties meet the conditions of the variance by that date.

Director McNeil stated the Board would next discuss and take any necessary action regarding restrictive covenant services provided by Sage Management. Director Jones discussed with Mr. Sagnes recent correspondence relating to a reported restrictive covenant violation and his response that no action would be taken, leading the Board to inquire about the consultant's understanding of the scope of services to be rendered. The Board discussed with Mr. Sagnes that he is to respond to all complaints and that his role is to document and report violations, not to resolve them. Mr. Sagnes discussed with the Board how his services rendered to other districts and homeowners associations vary from the services rendered to the District. He stated that he would work with Mr. Flahive's office to better communicate his responses, reporting and documentation of violations reported in complaints delivered to him. The Board also discussed with Mr. and Mrs. Sagnes the content of their monthly reports to the Board, requesting that the format initially used by Sage Management Services be used moving forward, as the current format was confusing. The Board clarified that the report should clearly articulate that current status of each complaint, including whether the complaint was a violation of applicable restrictive covenants; if so, when correspondence relating to the violation was delivered to the property owner; and, if not resolved within the time periods prescribed on the two letters delivered by Sage Management Services to the property owner, the date on which the matter was elevated to Mr. Flahive's office. The Board then directed Mr. Flahive to report on each matter that his office was handling at each monthly Board meeting.

Director McNeil then discussed with the other Board members the MS4 compliance report prepared by Mr. Hunt that would be submitted in the near term. Mr. Malish then discussed with the Board his desire to allow contractors only 14 days to submit bids for the Booster Station Enclosure project and the Robinson Park Restroom project, despite the Board's directive at its November 16 meeting. He explained that contractors generally wait until the day or two before the deadline to submit their bid so that they can have the most current pricing information, so he did not expect that the longer 30-day period would be helpful in obtaining more bids. The Board agreed and Mr. Malish stated that he would bring any bids received to the December 19 meeting. Mr. Hunt then addressed the Board, stating that he would be the Crossroads Utility Services employee assigned to the District moving forward. Director Green then discussed the proposed use of the kitchen in the Community Center by Katie's Snack Cart, as discussed at the November 16 meeting. She stated that she and the requesting resident were looking into whether a commercial kitchen was required, as the kitchen in the Community Center was not a commercial kitchen. She stated that if the kitchen was suitable, she would bring the item to the Board for action at its December 19 meeting. Director McNeil directed Mr. Flahive to contact Texas Municipal League to determine whether the proposed use was consistent with and covered by the District's insurance policy and report to the Board at the

December 19 meeting. The Board then discussed changing the format of its monthly meetings and elected, beginning in January, to have only Mr. Hunt and Mary Bott at its Monday work session, during which meeting the Board would take no action, then having all consultants at the Wednesday regular meeting, during which meeting the Board would take all actions.

There being no other matters to come before the Board, upon motion by Director Conklin and second by Director Green, the Board voted unanimously to adjourn at 7:44 p.m.

(SEAL)



Jo R Jones

Jo Jones, Secretary
Board of Directors

Date: December 19, 2016