

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

JANUARY 21, 2015

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

A regular meeting of the Board of Directors of North Austin Municipal Utility District No. 1, open to the public, was held on January 21, 2015, 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 McNeil, thus constituting a quorum. Also in attendance at the meeting were Gary Spoons with Crossroads Utility Services; Mary Bott with Bott & Douthitt, P.L.L.C.; David Malish with Murfee Engineering Co., Inc.; Richard Fadal with TexaScapes; Kevin Flahive with Armbrust & Brown, PLLC; Bob West with West, Davis & Company, LLP; Michael Whellan with Graves, Dougherty, Hearon and Moody; and the following residents of the District: Cheryl Hul, Stuart McNeil, Rob Lollier, Renee Cauffman, Jenny Ehrlich, Nicole Rivera and Matt Szekely.

Director Conklin called the meeting to order at 6:07 p.m. and stated that the Board would first receive citizen communications. Director Conklin addressed Stuart McNeil. Mr. McNeil stated that he was present to report on his Eagle Scout project to plant fifteen trees in Robinson Park, though he was currently awaiting approval of the project from his Boy Scout district. Mr. McNeil requested permission to plant one tree with two members of his troop on January 24th or 25th as a trial run before planting the remaining trees with all members of his troop on February 14th or 21st. The Board discussed the project with Mr. McNeil and supervision of the trial run by Mr. Fadal before authorizing Mr. McNeil to plant the initial tree on January 24th or 25th. Director Conklin then addressed Mr. Lollier. Mr. Lollier stated that he and other residents had formed an informal gardening group that would like to work with the District and the RCNA to put on two programs per year relating to issues such as gardening or tree pruning that may be of interest and service to the residents of the District. He stated that the initial program would be held on February 21st in the great room of the Community Center, at which Mr. Philip Conley, with Austin Water Utility, would speak about the City of Austin's rebate programs and xeriscaping. Mr. Lollier requested that the Board waive the rental fee for the great room for this event. Ms. Cauffman discussed methods of notifying District residents of the event with Mr. Lollier.

After discussion, Director Conklin stated that the Board would participate in the event by waiving the rental fee if the event does not conflict with an existing reservation. Director Conklin recommended that Mr. Lollier check with the Community Center staff to confirm. Director Conklin then recognized Ms. Caufman. Ms. Caufman stated that she was present to provide an RCNA update to the Board. She stated that the annual Easter egg hunt would be held on April 4th; the annual crawfish boil would be held on March 8th; the annual garage sale would be held on March 21st; and a membership drive happy hour would be held in February. Ms. Caufman requested that the Board allow alcohol within the Rattan Creek Park at the crawfish boil so long as bottles were not permitted. The Board discussed the presence of beer bottles at the event last year, as well as the lack of security presence, and agreed that beer would be permitted so long as bottles were not permitted and security would be provided. Ms. Caufman then discussed with the Board her desire to form a committee of RCNA representatives and Board members to investigate and identify opportunities for bringing high-speed internet service to the residents of the District. After discussion, Director Conklin stated that one of the Board members would serve on the committee. Mr. Conklin then recognized Ms. Ehrlich. Ms. Ehrlich stated that she was present to speak on the Alliance variance request and that she was directly impacted by the construction of the project. She stated that she had been dismissed, disregarded and disrespected by Alliance when making complaints relating to the construction. Ms. Ehrlich stated that she had been up since 3:30 a.m., after another concrete pour on the site woke her up. She stated that, if the Board were inclined to grant the requested variance, Alliance should offer to construct a better concrete fence along the boundary line between the Alliance site and the adjacent single family lots. She also stated that, if any funds were offered by Alliance, the second priority should be to use those funds for the Anderson Mill Road fence project. Director Conklin then addressed Nicole Rivera. Ms. Rivera stated that she was present to speak on the Alliance variance request and that she was also a neighbor who, since May, had been affected by noise from the project. Ms. Rivera asked at what time Alliance was allowed to begin work in the mornings. Mr. Spoons stated 7:00 a.m. Ms. Rivera stated that she had woken up at 5:30 a.m. that morning due to noise from the concrete pour that Ms. Ehrlich referenced. She stated that she felt disrespected by Alliance and that, if the Board were to grant the requested variance, Alliance should offer not only funds or improvements to reduce the impact of the project on area neighbors but also reasonable time restrictions for construction while the project is being finished. Mr. Conklin then addressed Mr. Szekely. Mr. Szekely stated that he was present to address violations of the on-leash ordinance in the District's parks. He stated that he continuously encounters people in the District's parks with dogs that are off-leash in violation of the ordinance and that, because of this, he was concerned for the safety of his daughter. Mr. Szekely requested increased enforcement of the on-leash ordinance. Director Conklin stated that the Board had been working on this issue for about 6 months and that increased enforcement had been requested of Captain Gleason. Mr. Spoons stated that numerous warnings and some tickets had been issued for violation of the ordinance in the District's parks and a notice of the ordinance had been published in the RCNA newsletter in the past and should be published again in the future. Director Conklin requested that Mr. Szekely identify regular and reoccurring times and locations during which the violations are present and Capt. Gleason would be provided this information for increased enforcement efforts. Director Conklin then addressed Michael Whellan. Mr. Whellan stated that he represented Alliance, was present to speak on the variance request at the

appropriate time, but wanted to apologize to the neighbors for the noise and times of construction on the site.

Director Conklin stated the Board would next consider approval of the December 15 minutes. He stated that the three references to the Milwood subdivision and the Milwood Homeowners Association in the fourth paragraph on page 3 of the minutes should be corrected to refer to the Bluffs at Milwood subdivision and the Bluffs at Milwood Homeowners Association. Director Collins made a motion to approve the minutes as well as the Resolution Confirming Annual Review of District Investment Policy and Investment Strategy, including the Code of Ethics, a copy of which is attached as **Exhibit "B"**, and the Resolution Confirming Annual Review of Identity Theft Prevention Program, a copy of which is attached as **Exhibit "C"**, on consent. Director Conklin seconded Director Collins' motion, with the amendment that his corrections to the December 15 minutes be included in the motion. Director Collins' motion, as seconded and amended by Director Conklin was unanimously approved.

The next item to come before the Board was to receive the audit of the District's financial statements for the fiscal year ended September 30, 2014, including a report from West, David & Company, LLP, approval of the audit report and client representation letter and authorization of filing of the audit report with the TCEQ. Director Conklin addressed Mr. West. Mr. West referred the Board to the final audit report that he handed out, a copy of which is attached as **Exhibit "D"**, and stated that it was the same as the draft version provided in the packets with the exception of a few minor edits. He stated that the Board has a good, thorough system in place. Mr. West stated that there were no changes to GAAP during the fiscal year. He discussed with the Board the content of his opinion letter regarding the District's financial statements on pages 2-4 of the audit report and stated that the remaining content of the audit report was the District's financial statements prepared by Ms. Bott. Mr. West stated that his audit report was clean, and he complimented Ms. Bott on her preparation of the financial statements. Director Jones stated that Director Collins' office was misstated on page TSI-8, clarifying that he was the District's Treasurer, not Assistant Secretary. Director Conklin asked Mr. West to confirm that during his audit he did not discover any misstatements in the District's financial statements. Mr. West confirmed that to be true. Upon motion by Director Conklin and second by Director Green, the Board unanimously approved the audit report, with the correction of Director Collins' office, and representation letter and to authorize the filing of the audit report with the TCEQ.

Director Conklin stated the next item to come before the Board was to consider approval of a request from Alliance Residential Company for a variance from R403.4.3 of the City of Austin Plumbing Code, as amended, as adopted by the District, for the property located at 8100 Anderson Mill Road. Director Conklin addressed Ms. Hul. Ms. Hul stated that she was on the board of directors of the Bluffs at Milwood Homeowners Association. She stated that there had been a lot of miscommunication between the association and Alliance, that requests from the association relating to construction were rebuffed by Alliance, and that emails sent relating to construction at 2:30 a.m. were met with excuses or no response at all. She stated that she had discussed the matter at length with Director Conklin. Ms. Hul stated that she urged the Board to take the hardship on the area residents caused by Alliance into consideration when determining whether to grant the

requested variance. Director Conklin stated that when he first discussed the variance request at a meeting with Director Green, Mr. Malish, Mr. Spoons and Mr. Whellan in December, he had expressed the area residents' displeasure with the way Alliance had treated them. Director Conklin then addressed Mr. Whellan. Mr. Whellan referred to Alliance's variance request and handed out copies of the request letter, a copy of which is attached as Exhibit "E". He described the course of events during which Alliance's mechanical, electrical and plumbing engineer failed to update the plans for the project to reflect a 2013 amendment to the City of Austin's plumbing code requiring that gas water heaters be installed in a project located on a tract of land served by gas utility service. Mr. Whellan stated that energy efficient electric water heaters had been purchased and the buildings had been designed for those electric water heaters. He stated that in order to comply with the amendment to the City of Austin's plumbing code, new gas water heaters would need to be purchased, the buildings would need to be redesigned to accommodate the gas water heaters and gas lines serving them, and portions of the driveways and parking areas that had already been constructed would need to be saw cut in order to install the gas lines serving the buildings. He stated that if the variance were granted, the project would be completed by September, and if not, completion of the project would be delayed by 60-90 days. Mr. Whellan asked the Board to accept Alliance's offer to construct a Hardie cement fence along the boundary line between the Alliance project and the adjacent single family lots. The fence would be of an approximate distance of 1,750 linear feet, at an approximate cost of \$70.00/linear foot to mitigate the impact of the Alliance property on the Bluffs at Milwood subdivision in return for the Board's grant of the requested variance. He stated that Mr. Easterling with Alliance was traveling and unable to attend the Board meeting, but that he would speak with Mr. Easterling and urge better communication with the area residents moving forward.

Director Conklin then stated that the Board wanted to receive legal advice relating to its ability to grant the requested variance and asked Mr. Flahive if he recommended that the Board convene in executive session to receive that legal advice. Mr. Flahive stated that he did recommend that the Board convene in executive session. Director Conklin then stated at 6:23 p.m. that the Board would go into executive session pursuant to Texas Government Code 551.071 to receive legal advice from the District's attorney, Mr. Flahive. At 7:55 p.m., the Board reconvened in open session. Director Conklin stated that no action had been taken in executive session. He stated that the Board would be willing to consider granting the requested variance once two conditions have been met. Director Conklin stated the first condition would be Mr. Whellan's delivery to the Board of a written consent from the City of Austin Law Department, in form and content acceptable to the Board and Mr. Flahive, providing that the Board's grant of the requested variance would be consistent with and in no way violate the terms of the Consent Agreement with the City of Austin pursuant to which the District was created. He stated that the second condition would be Alliance's construction of a fence on its property along the boundary line between the Alliance project and the adjacent single family lots prior to the District's connection of water utility service to the project. Director Conklin stated that a subcommittee of the Board would continue to work on the matter and if and when the two conditions are met, at Alliance's expense, the Board would call a special meeting, also at Alliance's expense, to take up the matter and consider granting the requested variance. Mr. Whellan asked Mr. Flahive if he could provide the name of the appropriate attorney in the City of Austin Law Department to contact regarding this matter. Mr. Flahive stated that he could not. Mr.

Whellan asked if Mr. Flahive would be available to work with him on the language of the letter from the City of Austin Law Department. Director Conklin stated that Mr. Flahive would be available to do so at Alliance's expense. Mr. Whellan asked who the members of the subcommittee would be. Director Conklin responded that it would be Director Green and himself. Mr. Spoons stated that the District had already connected water utility service to the project through a master meter. Director Conklin stated that the subcommittee would work to determine an appropriate timing requirement for Alliance's construction of the fence. He addressed Ms. Hul. She asked about the characteristics of the fence that would be constructed if the variance were approved. Director Conklin stated that the subcommittee would work on that as well. He encouraged the residents of the Bluffs at Milwood subdivision, representatives of the Bluffs at Milwood Homeowners Association and representatives of Alliance to work together if the Board was going to consider granting the variance. Mr. Whellan asked if a meeting to discuss the fence with the subcommittee and area residents could be scheduled. Director Conklin recommended that Mr. Whellan discuss the scheduling of the meeting with representatives of the Bluffs at Milwood Homeowners Association and let the members of the subcommittee know. The Board took no action on this matter.

The next item to come before the Board was to receive the park and landscape report, including proposals. Mr. Fadal referred the Board to his report in the packet. He then referred the Board to the landscaping proposal, a copy of which is attached as **Exhibit "F"**, in the amount of \$3,200.00 for annual mowing of the natural area in Robinson Park. After discussion and upon motion by Director Conklin and second by Director Green, the Board unanimously approved the proposal.

Director Conklin stated that the Board would next receive the pool and community center report. Mr. Burke passed out the pool replastering schedule from Hines Pool & Spa. He stated that he'd met with the owner and project manager, and that the contractor would begin on February 20 with an on-site meeting and work through the weekend and subsequent weekends, if necessary, to complete the project. Mr. Burke stated that Hines Pool & Spa would have no other projects ongoing during this time. He stated that the goal would be to complete the replastering project and open the pool by March 16 for Spring Break. Mr. Burke stated that, unfortunately, the heater for the pool could not be operated for two weeks thereafter due to concerns that it could damage the replastering. He stated that Hines Pool & Spa would be paid 50% of the project cost upfront, 40% of the project cost upon completion, and the remaining 10% of the project cost would be retainage to be paid upon the Board's approval of the work. Mr. Burke stated that all documentation relating to the replastering project had been provided to Mr. Flahive and a certificate of insurance naming the District as an additional insured would be delivered by the contractor to Mr. Flahive. Director Conklin asked Mr. Spoons if an additional insurance claim could be made if, upon draining the pool, additional damage due to the vandalism were discovered. Mr. Spoons stated that he had not addressed the issue with TML. The Board took no action on this matter.

The next item to come before the Board was to receive the general manager's report. Mr. Spoons stated that he had reviewed his report with the Board during the January 19 work session. He stated that he had write-offs in the aggregate amount of \$289.24 for the Board's consideration. After discussion of the process for write-offs and

possible action to establish a new policy regarding the same, and upon motion by Director Conklin and second by Director Green, the Board unanimously approved the write-offs, with Director Jones absent. Mr. Spoons then addressed the status of the Agreement for Security Services to the District with Williamson County and the Williamson County Sheriff's Office. Mr. Flahive explained the chronology of events during which Stan Springerley, legal counsel to the Williamson County Commissioners Court, determined that an October 3 version of the agreement submitted by Mr. Flahive and legal counsel to other districts represented by his firm was reasonable and directed that it be approved by the Board, executed by Director McNeil, delivered to and executed by Sheriff Wilson on behalf of his office and Williamson County, and delivered to Mr. Springerley for presentation to the Commissioners Court. After these actions were taken, the Commissioners Court adopted a new iteration of the agreement on October 28. Mr. Flahive stated that, pursuant to the Board's approval of the October 3 version and subsequent discussion with Director McNeil and Director Conklin, he had submitted two fully executed originals of the agreement, and the related Memorandum of Understanding, to Mr. Springerley on January 19 for presentation to the Commissioners Court. After discussion, Director Conklin stated that he would contact Judge Gattis to request a meeting to discuss the agreement and seek to reach consensus without further revisions to the agreement and additional Board action. The Board took no action on this matter.

Director Conklin stated the Board would next receive the bookkeeper's report. Ms. Bott referenced her handout cash activity report, a copy of which is attached as **Exhibit "G"**, and reviewed the invoices to be paid and transfer to be approved. Ms. Bott stated that she was in agreement with the City of Austin's water invoice for December, but errors in prior invoices were still being addressed. Upon motion by Director Collins and second by Director Green, the Board unanimously approved payment of the invoices and the transfer of \$100,000.00 from the TexPool Operating Account to the First Citizens Operating Account.

The next item to come before the Board was to receive the District engineer's report, a copy of which is attached as **Exhibit "H"**. Mr. Malish referred the Board to his report in the packet and stated that he had discussed his report with the Board during the January 19 work session and had nothing to add.

Director Conklin stated that the Board would then receive the restrictive covenant report from Mr. Flahive. Mr. Flahive stated that he had nothing new to report.

Director Conklin stated that the Board would then discuss future annexation, limited district conversion, and other City of Austin related issues, including the water and wastewater rate appeal and the JPI settlement. Director Conklin asked Mr. Flahive to remove the reference to the JPI settlement in this item on future agendas. Director Conklin stated that he understood that either he or Director McNeil would be deposed in the water and wastewater rate appeal, but he had not been told anything further.

Director Jones then addressed the pet waste stations to be purchased and installed in Rattan Creek Park and Robinson Park. She stated that the stations without accompanying trash cans could be purchased at a cost of \$159.00/station. Mr. Spoons stated that the estimated installation cost would be \$110.00/station. The Board discussed

that fifteen stations would be installed, primarily near the entrances to the parks, at a total cost not to exceed \$4,000.00. Upon motion by Director Jones and second by Director Collins, the Board unanimously approved the purchase and installation of fifteen stations at a total cost not to exceed \$4,000.00.

There being no other matters to come before the Board, upon motion by Director Conklin and second by Director Collins, the Board adjourned at 8:53 p.m.



Jo Jones

Jo Jones, Secretary
Board of Directors

Date: February 18, 2015