

1 MINUTES OF THE MEETING OF  
2 THE BOARD OF DIRECTORS OF  
3 WELLS BRANCH MUNICIPAL UTILITY DISTRICT  
4  
5

6 September 20, 2011  
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9 The Board of Directors of Wells Branch Municipal Utility District held a regular meeting  
10 on September 20, 2011 at the Wells Branch Community Center, 2106 Klattenhoff Drive,  
11 Austin, Texas. The meeting was open to the public and notice was given as required by  
12 the Texas Open Meetings Act. A copy of the Certificate of Posting of the Notice is  
13 attached as Exhibit "A".  
14

15 Members of the Board as it was called to order are:  
16

17 Charles R. Walters	- President
18 Donna Howe	- Vice President
19 Janet Maxey	- Secretary
20 Tom Cheshire	- Treasurer
21 Robert Bauhs	- Assistant Secretary-Treasurer

22

23 and all of the Directors were present, thus constituting a quorum. Also present during  
24 the course of the meeting were Jesse L. Kennis II, District Manager; John Bartram of  
25 Armbrust & Brown, PLLC, the District's law firm; Margret Wingrove of Crossroads  
26 Utility Services, the District's utility management firm; Robert Ferguson, P.E., of Murfee  
27 Engineering, the District's engineering firm; Allen Douthitt of Bott & Douthitt, PLLC,  
28 the District's accountant; Richard Fadal of TexaScapes, the District's landscaper; Mike  
29 Thompson and Jason Idell of Wright & Greenhill, P.C.; James Skowbo, a resident of the  
30 District; Debby Thompson and Linda Baird of the Wells Branch Neighborhood  
31 Association; and Clay Avery of GCP Association Services, the District's recording  
32 secretary.  
33

34 Director Walters called the meeting to order at 5:45 p.m. and stated that the Board  
35 would convene in executive session in order to receive legal advice regarding pending  
36 employment-related claims, charges, and lawsuits and related insurance matters,  
37 including: (a) *Raul D. Hernandez, Jr. v. Wells Branch Municipal Utility District No. 1,*  
38 *et al.*, in the 419th Judicial District Court of Travis County, Austin, Texas; Cause No. D-  
39 1-GN-10-004333; and (b) *Diane Johnson v. Wells Branch Municipal Utility District No.*  
40 *1, et al.*, in the 98th Judicial District Court of Travis County, Austin, Texas; Cause No. D-  
41 1-GN-10-003217, as permitted by Section 551.071 of the Texas Government Code. At  
42 6:49 p.m., the Board reconvened in open session, and Director Walters announced that  
43 no action had been taken during executive session. **Director Maxey then moved (i)**  
44 **that the Board approve settlement of the Hernandez lawsuit for a total of**  
45 **\$125,000 with the District's contribution not to exceed \$55,000 and to**  
46 **authorize Director Walters to execute all appropriate documentation**  
47 **related to the settlement; and (ii) that the Board authorize the District's**

1 **legal counsel to negotiate a settlement of the *Johnson* lawsuit for a**  
2 **total amount not to exceed \$225,000 and to authorize Director Walters to**  
3 **execute all appropriate documentation related to the settlement. Upon**  
4 **second by Director Walters, the motion passed with Directors Walters,**  
5 **Howe, Maxey, and Cheshire all voting "aye". Director Bauhs abstained**  
6 **from the vote.** Director Walters then announced that the Board would take a brief  
7 recess.  
8

9 Director Walters reconvened the meeting at 6:32 p.m. and announced that the Board  
10 would receive citizens' communications. Director Walters recognized Mr. Skowbo, who  
11 stated that he was concerned about the health of Mills Pond in light of the recent severe  
12 drought and questioned the Board's plans for the area. Director Walters stated that the  
13 Board had always taken the position that the pond was a natural area that would be  
14 allowed to fill and deplete in accordance with environmental causes. Director Walters  
15 stated that some ideas for filling the pond had been mentioned but that the Board had to  
16 consider the best use of water in light of the drought. Mr. Skowbo discussed his  
17 concerns for the wildlife in the area and possible damage to the pond's ecosystem. Mr.  
18 Skowbo stated that he wished for the Board to step in and take action to prevent the  
19 pond from drying up, possibly with the use of an irrigation well. Director Howe noted  
20 that many procedural steps and issues presented themselves when trying to access and  
21 use groundwater. Director Walters stated that the Facilities Committee would examine  
22 the issue and bring a recommendation back to the Board.  
23

24 Director Walters then announced that the Board would consider the items on its consent  
25 agenda:  
26

- |    |                             |   |
|----|-----------------------------|---|
| 27 | <b>Agenda Item No. 3(a)</b> | Approve minutes of August 23, 2011              |
| 28 |                             | special meeting; September 6, 2011              |
| 29 |                             | special meeting, and September 6, 2011          |
| 30 |                             | regular meeting, as revised;                    |
| 31 |                             |   |
| 32 | <b>Agenda Item No. 3(b)</b> | Renewal of Plumbing Inspection                  |
| 33 |                             | Services Agreement with Roadrunner              |
| 34 |                             | Inspection Services, <u>attached as Exhibit</u> |
| 35 |                             | <u>"B."</u>                                     |
| 36 |                             |   |

37 **Director Cheshire moved, seconded by Director Walters, approval of the**  
38 **consent agenda and the motion passed unanimously.**  
39

40 Director Walters stated that the Board would consider Agenda Item No. 4(a) and  
41 recognized Mr. Douthitt for a report from the District's accountant. Mr. Douthitt  
42 referenced his report to the Board, attached as Exhibit "C," and discussed the District's  
43 projected fund balance for the end of the fiscal year. Mr. Douthitt stated that the  
44 balance would be higher than originally budgeted due to some capital projects that  
45 would not be undertaken in the current year as planned, such as the wastewater line  
46 rehabilitation project. Mr. Douthitt noted that the District was ahead of budget in other  
47 areas and discussed individual items that had produced cost savings for the District.

1 Discussion ensued on workman's compensation insurance claims and other individual  
2 budget items. Mr. Douthitt then discussed Agenda Item No. 3(b) concerning the  
3 payment of the District's bills and invoices as well as proposed fund transfers. Mr.  
4 Douthitt cited supporting documentation for the transactions, attached as Exhibit "D."  
5 **Director Maxey moved, seconded by Director Howe, that the Board approve**  
6 **the payment of bills and invoices and the fund transfers. The motion**  
7 **passed unanimously.** Board discussion then ensued on Director compensation and  
8 reimbursement policies, including the possibility of a prescribed time frame for  
9 submitting payment requests, which Mr. Bartram stated that he supported.

10  
11 Director Walters stated that the Board would consider Agenda Item No. 4(c) and  
12 recognized Ms. Wingrove for a report from the District's utility management firm,  
13 attached as Exhibit "E." Ms. Wingrove discussed her water report and noted that  
14 August 2011 was the second highest month for water flow in the last 9 years. Ms.  
15 Wingrove noted that all bacteriological and residual tests had been satisfactory. Ms.  
16 Wingrove discussed water disconnections for the month and stated that additional  
17 collection efforts had been successful with regards to the District write-off list. Ms.  
18 Wingrove stated that, because of those efforts, the total for write-offs should be  
19 amended to \$890.13. Ms. Wingrove then noted supporting documentation for the  
20 write-off recommendations, attached as Exhibit "F." **Director Howe moved,**  
21 **seconded by Director Cheshire, that the Board approve the recommended**  
22 **write-offs. The motion passed unanimously.**

23  
24 Director Walters stated that the Board would consider Agenda Item No. 4(c)(2) and Ms.  
25 Wingrove passed out a timeline of events relating to a recent alleged theft of water  
26 service from the District, attached as Exhibit "G." Ms. Wingrove discussed the events of  
27 the incident and noted that the responding deputy had suggested following through with  
28 filing charges for theft. The Board discussed possible penalties and legal remedies for  
29 the action. The Board then discussed the appropriate course of action and penalty to  
30 pursue for violation of the District's rules and regulations. The Board discussed the  
31 need to set a precedent that the District would seriously address such activity.  
32 **Director Howe moved, seconded by Director Cheshire, that the Board**  
33 **pursue criminal charges against the alleged offender and separately impose**  
34 **a \$200/day fine for eight days under District rules in addition to**  
35 **reimbursement for damage district property. The motion passed**  
36 **unanimously.** *The Board directed Mr. Kennis to write a letter to the alleged offender*  
37 *detailing the fine subject to Mr. Bartram's legal review.* Discussion then ensued on  
38 possible problematic readings from water meters and efforts to communicate with  
39 residents who believe that they may have a leak or possible meter problem.

40  
41 **ADMINISTRATIVE COMMITTEE:** Director Howe discussed a recent Committee  
42 meeting including a review of employee insurance benefits and noted that the District's  
43 compensation was in line with industry standards.

44  
45 **RECREATION COMMITTEE:** Director Maxey discussed an upcoming Community  
46 input meeting and reviewed the meeting's time, purpose and agenda. Director Maxey  
47 then stated that the Renaissance Festival had been a success.

1  
2 **FACILITIES COMMITTEE:** Director Walters discussed the Committee's  
3 consideration of a fence that was to be installed in a drainage easement. Mr. Bartram  
4 stated that he had prepared documentation based on the Committee's proposal but that  
5 he would like more time to review District rules and covenant concerns with Mr. Kennis'  
6 office. The Board tabled the issue.

7  
8 Director Walters then stated that the Board would consider Agenda Item No. 6(b)(1)  
9 and recognized Mr. Ferguson for a report from the District's engineer, attached as  
10 Exhibit "H." Mr. Ferguson discussed his report and noted that a Texas Commission on  
11 Environmental Quality supervisor would be giving comments on the Mills Pond Dam  
12 Emergency Action Plan that had been submitted to the agency. Mr. Ferguson discussed  
13 a road maintenance project and various site development projects. Mr. Ferguson  
14 discussed the beginning stages of the wastewater line rehabilitation project and noted  
15 that more action on the project was coming soon. Mr. Ferguson then noted that the  
16 controller at the Willow Run temporary booster pump station had been malfunctioning.  
17 Mr. Ferguson then stated that the device had been an emergency replacement installed a  
18 decade ago, and had far outlived its intended usefulness. Mr. Ferguson stated that he  
19 would work with the Facilities Committee to remedy the issue. Mr. Ferguson stated that  
20 a newly purchased controller would be able to be moved to a projected permanent  
21 shelter for the pump station. The Board then discussed the master meter project at The  
22 Lakes Apartment complex and Mr. Bartram discussed the possibility of purchasing an  
23 easement for the project and *the Board concurred in allowing Mr. Bartram to*  
24 *investigate the possibility.*

25  
26 Director Walters stated that the Board would consider Agenda Item No. 6(c) and stated  
27 that Mr. Fadal would give a report to the Board regarding landscaping issues, attached  
28 as Exhibit "I." Mr. Fadal discussed his report and noted that the current drought and  
29 heat wave were having epic impacts on the area. Mr. Fadal passed a handout to the  
30 Board, attached as Exhibit "J," that detailed the actions being taken by his firm to  
31 protect the landscape through the weather issues. Mr. Fadal discussed the measures  
32 being taken to provide service during the drought and stated that he felt rain would  
33 come back to the area to the point that Lake Travis would be significantly more full by  
34 Halloween. The Board discussed problems with Mills Pond's water level and *directed*  
35 *Mr. Ferguson to investigate possible actions to aid the Pond in surviving the drought.*  
36 The Board then discussed logistical issues with the District's composting program.  
37 Director Howe stated that a resident had recently trimmed some trees near her house  
38 and that she noticed TexaScapes had quickly responded to remove the yard waste.

39  
40 Director Bauhs stated that the Trees for the Trails group had heard from CommuniTrees  
41 that the District's grant for supplying trees had been approved. Director Bauhs stated  
42 that the group had asked that the District assist with the site plan and the actual  
43 planting of the trees. Board discussion ensued on the issue. The Board then discussed  
44 duck overpopulation at Mills Pond and possible solutions to the problem.

45  
46 Director Walters then stated that Mr. Kennis would report to the Board regarding solid  
47 waste/recycling issues. Mr. Kennis discussed the report from IESI, attached as Exhibit

1 “K.” and noted record monthly recycling revenues for the District. Mr. Kennis then  
2 reviewed and discussed customer complaints.

3  
4 **INFORMATION TECHNOLOGY COMMITTEE:** Director Walters discussed the  
5 proposed hierarchy of the new District website and the proposed site design, attached as  
6 Exhibit “L.” The Board reviewed the document and examined the contents.

7  
8 The Board then discussed Agenda Item No. 7(c) regarding the transfer of information  
9 technology services and payments that were made to facilitate the transfer.

10  
11 **PUBLIC SAFETY COMMITTEE:** Director Cheshire discussed a recent meeting of the  
12 Committee and then referenced Agenda Item No. 8(b) and supporting documentation,  
13 attached as Exhibit “M.” Director Cheshire discussed the proposed ATV purchase, as  
14 well as the vehicle attributes and possible modifications that could slightly lower the  
15 listed price. Discussion ensued on the proposal. **Director Cheshire moved,**  
16 **seconded by Director Maxey that the Board approve the purchase of the**  
17 **proposed ATV maintenance and patrol vehicle for a price not to exceed**  
18 **\$17,978. The motion passed unanimously.**

19  
20 Director Cheshire then discussed Agenda Item No. 8(c) and supporting documentation,  
21 attached as Exhibit “N,” detailing the Committee’s recommendation for video  
22 surveillance cameras at Katherine Fleischer Pool and the Recreation Center. Mr. Kennis  
23 noted that \$25,000 had been budgeted for the item. Director Cheshire stated that the  
24 cameras would be a sizeable upgrade to the current situation. The Board discussed the  
25 proposal. Mr. Kennis stated that the District could see more manageable insurance  
26 premiums based on the prevention of loss that the security would provide. **Director**  
27 **Cheshire moved, seconded by Director Maxey, that the Board approve the**  
28 **purchase of the proposed surveillance cameras for an amount not to exceed**  
29 **\$12,973.50. The motion passed unanimously.** Director Cheshire then discussed  
30 a recent Travis County Commissioners meeting that he and Director Maxey had  
31 attended regarding redistricting. Director Cheshire noted that the District had been left  
32 in tact in terms of precinct redistricting.

33  
34 **AD HOC COMMITTEE ON PHASE W-2A ROADWAYS:** Discussion ensued on a  
35 possible schedule for a Committee meeting. The Board then discussed the District’s  
36 potential ability to repair sidewalks within the stated parameters of the Texas Water  
37 Code.

38  
39 Director Walters then announced that the Board would consider Agenda Item No. 10  
40 and receive a report from the District Manager, attached as Exhibit “O.” Mr. Kennis  
41 discussed his narrative report, and noted correspondence from the Texas Municipal  
42 league as well as customer comments. Mr. Kennis noted his directives report and  
43 discussed a report from Achilles HR Group, a consultant on human resources to the  
44 District. Mr. Kennis discussed the contract status of the firm and Board discussion  
45 ensued. Mr. Kennis then led a discussion on Agenda Item No. 10(c)(1) regarding a  
46 follow up to the 2011 Comprehensive Compensation Study and Analysis from Ray  
47 Associates. Mr. Kennis stated that it was his recommendation to approve the proposed

1 pay schedule for 2012. **Director Cheshire moved, seconded by Director**  
2 **Walters, that the Board approve the recommended pay schedule, attached as**  
3 **Exhibit "P." The motion passed unanimously. The Board generally agreed that**  
4 **this would not result in any compensation changes for current employees.** The Board  
5 then discussed a proposed performance pay increase percentage and elected to table the  
6 issue until the October Board work session. Mr. Kennis then discussed Agenda Item No.  
7 10(c)(2) regarding a proposed organizational chart for the District staff and the Board  
8 elected to discuss the specifics of the item in a later executive session.

9  
10 Mr. Kennis then discussed Agenda Item No. 10(d) and discussed proposed automation  
11 of the District's phone system. Mr. Kennis discussed the limited feedback his office had  
12 received on the initiative. Director Cheshire noted his frustration with his inability to  
13 get a former District vendor on the phone and wished for that not to be the case for  
14 someone calling the District office. Director Maxey stated her concerns with the system  
15 and her preference for a staff member to answer without any automation. **Director**  
16 **Maxey moved, seconded by Director Howe, that the District require a live**  
17 **staff member to answer the phones at the District offices. The motion**  
18 **passed with Directors Maxey, Howe and Cheshire voting aye and Directors**  
19 **Bauhs and Walters voting nay. The Board then reached a consensus that the**  
20 **automated system could answer the phone after three rings.**

21  
22 Mr. Kennis then discussed Agenda Item No. 10(e) and supporting documentation,  
23 attached as Exhibit "Q," concerning a recommendation for Recreation Manager Matt  
24 Fuller to attend a continuing education conference in Atlanta, Georgia. Mr. Kennis  
25 noted that the conference would provide Mr. Fuller the opportunity to get all his  
26 necessary continuing education credits in one place. Discussion ensued and Director  
27 Maxey stated that she would like to see the criteria for Mr. Fuller's accreditation and  
28 determine whether there was a more efficient and inexpensive way for him to get the  
29 necessary education. Director Howe stated that she also felt she did not have enough  
30 information on the proposal. **Director Cheshire moved, seconded by Director**  
31 **Walters, that the Board approve the proposal for Matt Fuller to attend the**  
32 **proposed recreation conference. The motion passed 4 to 0, with Director**  
33 **Howe abstaining.**

34  
35 The Board then discussed the possibility of changing the date of the Board's October  
36 work session meeting to avoid a conflict with National Night Out on October 4<sup>th</sup>.  
37 **Director Cheshire moved, seconded by Director Walters, that the Board**  
38 **change the date of the monthly work session to October 3<sup>rd</sup>, 2011 at 6:30**  
39 **p.m. The Motion passed with Directors Cheshire, Walters, Maxey and**  
40 **Bauhs voting aye and Director Howe voting nay.**

41  
42 Mr. Kennis then discussed Agenda Item No. 10(g) as well as supporting documentation,  
43 attached as Exhibit "R," regarding an agreement to remodel and construct the customer  
44 service counter at the Recreation Center. Mr. Kennis noted that the company's principal  
45 was out of town but that the pertinent details of the agreement had been agreed to.  
46 After discussion, **Director Maxey moved, seconded by Director Howe, that the**  
47 **Board authorize the Administrative Committee to negotiate and execute the**

1 **agreement with New Line Construction for the remodeling on the customer**  
2 **service counter at the Recreation Center. The motion passed unanimously.**  
3

4 Director Walters stated that the Board would consider Agenda Item No. 11 and receive a  
5 report from the District's attorney. Mr. Bartram discussed Agenda Item No. 11(d) and  
6 stated that Jeff Hobbs in his office had offered to assist with the matter. Mr. Kennis  
7 stated that the company had submitted a disputed invoice after they had installed a fire  
8 monitoring system without District approval. Mr. Bartram stated that his  
9 recommendation was to authorize his firm to work with Mr. Kennis to resolve the  
10 matter, *and the Board concurred.*  
11

12 Mr. Bartram then discussed Agenda Item No. 11(e) and stated that the District had paid  
13 a quarterly payroll tax to its former payroll company, payroll America. Mr. Bartram  
14 stated that the company had gone into bankruptcy and not paid the payment to the IRS.  
15 Mr. Bartram noted that the District had resolved the issue by paying the IRS, and was  
16 now able to file a claim against the company's bankruptcy estate for the original  
17 payment. **Director Cheshire moved, seconded by Director Walters, that the**  
18 **Board authorize Mr. Bartram's office to assist in the preparation of proof of**  
19 **claim against Payroll America and authorize Director Walters to sign the**  
20 **document. The motion passed unanimously.**  
21

22 Mr. Bartram then discussed Agenda Item No. 11(f) and stated that a letter had been  
23 received from the U.S. Department of Justice asking for the names of District employees  
24 who had contributed to a flexible spending account under XpressFlex, a former District  
25 vendor. Mr. Bartram discussed privacy issues and stated that he recommended that a  
26 member of the District staff determine the employees in question and work with Mr.  
27 Bartram's office to assemble the proper response. **Director Maxey moved,**  
28 **seconded by Director Walters, that the Board authorize a District staff**  
29 **member to ascertain the employees that had contributed to a flexible**  
30 **spending account under XpressFlex and work with Mr. Bartram's office to**  
31 **properly respond to the Department of Justice's request. The motion**  
32 **passed unanimously.**  
33

34 Director Walters then asked for announcements from the Board and there were none  
35

36 At 10:54 p.m., Director Walters announced that the Board would convene in executive  
37 session in order to (i) deliberate the appointment, evaluation, reassignment, and duties of  
38 the District's employees in connection with proposed modifications to the District's  
39 organizational chart, as permitted by Section 551.074 of the Texas Government Code; and  
40 (ii) deliberate and receive legal advice regarding personnel matters related to the  
41 evaluation of the District Manager, including a complaint against the District Manager, as  
42 permitted by Sections 551.071 and 551.074 of the Texas Government Code. The Board  
43 reconvened in open session at 12:04 a.m., and Director Walters confirmed that no action  
44 was taken during executive session. **Director Cheshire then moved (i) that the**  
45 **District Manager make modifications to the District's organizational chart to**  
46 **clarify certain job titles and reporting responsibilities and bring the revised**  
47 **chart back to the Board at the October 3rd work session meeting for further**

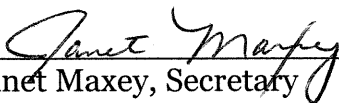
1 **review and approval; and (ii) that the Board direct Mike Golden of Boulette &**  
2 **Golden L.L.P., the District's special legal counsel on employment matters, to**  
3 **conduct an immediate investigation into complaints against the District**  
4 **Manager and report directly back to the Board as soon as possible.**

5  
6 There being no further business to come before the Board, the meeting was adjourned.

7  
8  
9 Respectfully submitted:

10  
11  
12  
13  
14 October 18, 2011

15 Date

16   
17 Janet Maxey, Secretary  
18 Board of Directors  
19 Wells Branch Municipal Utility District  
20

20 (SEAL)