

MINUTES OF MEETING OF  
BOARD OF DIRECTORS OF WELLS BRANCH  
MUNICIPAL UTILITY DISTRICT

May 15, 2001

A regular meeting of the Board of Directors of Wells Branch Municipal Utility District was held on May 15, 2001 at the Wells Branch Community Center, 2106 Klattenhoff Drive, Austin, Texas. The meeting was open to the public and notice was given as required by the Texas Open Meetings Act. A copy of the Certificate of Posting of the Notice is attached as Exhibit "A".

The roll was called of the members of the Board:

Charles R. Walters - President  
Donna Howe -Vice President  
Scott Gilmore - Secretary  
Joy Smith- Treasurer and Assistant Secretary

and all of the Directors were present, thus constituting a quorum. Also present at the meeting were Don Williams, District Manager; Charles Swick, Assistant Manager; Cliff Avery of Gilleland Creek Press; Margaret Wingrove of ECO Resources, Inc.; Robert Ferguson of Murfee Engineering; Lanna Chapman, District employee; Bill Glass and Mr. and Mrs. Robert O'Donnell, residents of the District; and Sue Brooks Littlefield of Armbrust Brown & Davis, L.L.P.

Director Walters called the meeting to order at 6:35 p.m., and stated that the Board would first consider appointing a new Director. He announced that the Board had received resumes from Bill Glass, Jerry Van Horn, James Page, and Robert O'Donnell. He noted that various of the Board members had contacted the candidates for the vacancy on the Board. Director Gilmore then moved that the Board appoint Robert O'Donnell to fill the vacancy created by the resignation of Director Graham. Director Howe seconded the motion, which was unanimously adopted. Director Gilmore noted that only Mr. Glass and Mr. O'Donnell had attended the Board meeting, and thanked them both for their interest in serving. He stated that he would like to explore involving Mr. Glass in certain District activities, as he had requested. He stated that he was in favor of encouraging citizen involvement in District processes, and felt that Mr. Glass had a good idea which he would like to look into. Director Walters noted that the Board encouraged citizen involvement in the Board's committees, and felt that this process could be perfected. Director Howe suggested looking into having a retreat to identify ways for the Board to foster greater resident involvement. Director Gilmore stated he felt the District should find a way to make this happen, and should develop guidelines so the process works smoothly. Director Walters suggested assigning the Administrative Committee to look into this and report back to the Board, and the Board concurred.

Director Walters then stated that the Board would consider approving and accepting a Statement of Appointed Officer, Oath of Office and Official Bond for Director

O'Donnell. Director O'Donnell took his Oath of Office, and the Board congratulated him on his appointment. Upon motion by Director Smith and second by Director Howe, the Board voted unanimously to accept the Statement of Appointed Officer, Oath of Office and Official Bond.

Director Walters then stated that the Board would consider electing new officers for the Board. He recommended keeping the same slate of officers with the addition of Director O'Donnell to the office of Assistant Secretary/Assistant Treasurer. Upon motion by Director Howe and second by Director Walters, the Board voted unanimously to do so.

Director Walters then stated that the Board would consider approving a revised District Registration Form and authorizing its filing with the Texas Natural Resource Conservation Commission. Upon motion by Director Smith and second by Director Gilmore, the Board voted unanimously to approve the revised District Registration Form to reflect the appointment of Director O'Donnell.

At 6:44 p.m., Mr. Avery left the meeting. Director Walters then stated that the Board would receive a report from the District's utility manager. Ms. Wingrove reported that, pursuant to ECO Resources' contract with the District, her company's fees for basic services had been adjusted based on the consumer price index. She discussed repeat delinquent customers, noting that 87% of the customers who were delinquent in making payments had been delinquent previously. Ms. Wingrove also reported on a contractor who had damaged a fire hydrant and also hit a gas line, resulting in a substantial amount of damage. She noted that ECO Resources had to replace the fire hydrant, which would be back-billed to the contractor, along with the water that was lost as a result of the damage. The Board agreed that it would further discuss this matter in executive session, later in the meeting.

Director Walters then stated that the Board would receive a report from the District Manager. Mr. Williams reported on the progress of the fence project, noting that the contractor was installing about 75 feet of fence per day. He also reported that the TexaScapes' maintenance area was looking very good. Mr. Swick reported on restrictive covenant violations, noting that approximately 99.5% of the District's residents were in compliance with the covenants. He stated that ten violations had been referred to the attorney's office. Mr. Swick also advised the Board that he had received a report that the dogs at the Delgado residence were continuing to bark incessantly. He stated that he had personally gone by the residence and heard the dogs barking, and that it was very annoying and apparently occurring at all hours. Mr. Swick noted that he had recently received an anonymous letter asking why the District was "coming down" on dog owners, and complaining that cats were causing the barking. Mr. Swick updated the Board on the District's customer service efforts, noting that Lanna had been quick to respond to a recent water outage within the District. Mr. Williams reported that the property at the corner of Yora and Merriltown Drive had been taken over by a mortgage company, and that he would be in contact with the mortgage company regarding the maintenance of the yard at the residence. Director Smith reported that there was a cover over a city water line which was broken, and asked Mr. Swick to call the City. He agreed

to do so. The Board discussed the apparent theft of water from the fire hydrants along Shoreline Drive. Mr. Williams explained that the fire hydrants on the west side of Shoreline Drive were the property of the City of Austin and, although they might be unmetered, the contractor could have an agreement with the City regarding the water use.

Director Walters then stated that the Board would receive a report from the District's attorney. Ms. Littlefield reported that she had been contacted by Brad Hawley, the attorney for the Lakes at Wells Branch Apartments, regarding the waterline issue relating to that apartment complex, and suggested that she be allowed an opportunity to negotiate with Mr. Hawley regarding a possible resolution of the matter. Ms. Littlefield also reviewed the memorandum regarding over 65/disabled homestead exemptions, attached as Exhibit "B". After discussion, the Board agreed to refer the matter of the over 65/disabled exemptions to the Finance Committee for further review. Ms. Littlefield reported that the approval from the Texas Natural Resource Conservation Commission to purchase facilities from the developer Gerald D'Angelo would expire on June 28, and that Mr. D'Angelo had not, to date, provided all the information required by the auditor to complete his developer reimbursement audit and allow the District to proceed to purchase those facilities in accordance with the District's reimbursement contract with Mr. D'Angelo. She suggested that she be authorized to send Mr. D'Angelo a letter advising him that the approval would expire on June 28 and, if further approvals were required after that date, that he would be required to incur any costs associated with those approvals. After discussion, the Board authorized Ms. Littlefield to proceed as recommended.

Mr. Ferguson then reported that he was awaiting some final details on the Bratton Lane improvements, which he would discuss with the Board when he received the information that he needed. He also discussed the City's requirement that the District mitigate for wetlands in the drainage easement that was included within the new detention pond project, as set forth in the letter attached as Exhibit "C". He stated that he was continuing to work with the City on wetlands revegetation. Mr. Ferguson advised the Board that the City had taken the position that River Place Municipal Utility District was responsible for the maintenance of the water quality pond within the District, even though the City's ordinances required the City to maintain the pond. The Board discussed the matter and agreed to refer it to the District's Intergovernmental Relations Committee for discussion with the District's lobbyist. Ms. Littlefield stated that she felt the District was taking a responsible position by maintaining ponds within its boundaries, despite the City's responsibility under its own ordinances and its refusal to maintain the ponds.

Director Walters then stated that the Board would consider taking action regarding the Interlocal Agreement Regarding Temporary Pass Through Water Service with the City of Austin for the Shoreline Church Tract. Mr. Ferguson and Ms. Littlefield reviewed a revised draft of the proposed Agreement with the Board. The Board agreed that the exception language that had been included in Section 1.11 should be made reciprocal, and Ms. Littlefield agreed to see that this change was made. Director Howe inquired whether the residents would see any change in pressure as a result of this Agreement. Mr. Williams stated that he did not expect any change to be apparent, even if the pressure

changed from 60 to 50 psi. Mr. Ferguson noted that the Martin Hill Reservoir had been off-line over the winter, but that the pressure within the District had remained adequate, and so he felt that the booster station was functioning appropriately and would assure adequate pressure within the District. Mr. Ferguson also noted that he received data that indicated the average pressure from the City of Austin would be better than the minimum specified in the Agreement. Mr. Ferguson stated that he wanted to make sure that it was clear that the Agreement would go away when the City improvements were complete, and that Mr. Carlton had assured him that it would. At 7:32 p.m., Mr. Ferguson left the meeting.

Director Walters then stated that the Board would receive citizens' communications. Mr. Glass stated that he had attended the meeting in order to ask the Board about citizen involvement in District activities. He stated that he had observed a number of things in the park and at Mills Pond that he thought he could assist with. He noted that, at Mills Pond, the wier of the dam was always getting clogged up, and he felt it needed a wrought iron grate. He stated that he felt this was important, because the high water level in the pond would affect the grass growth along the edge of the pond. He stated that, similarly, the pond on Doria Drive next to the North Meadow lacked a mechanism over the outfall at the bottom of the dam to catch debris. He suggested that perforated pipe, with rock around it, be installed as a solution. He stated that the District needed more eyes to observe matters such as these, and that he would like to set up a Riparian Conservancy Group to look at runoff, plant and wildlife management, creek maintenance, the preservation of the riparian system and its improvement, in a manner that did not block water flow. He suggested that the conservancy committee look at educational programs, conduct fund raising, and operate a wildflower demonstration garden. He stated that he would like to be involved in the plan to build a water feature, and to serve on the citizens advisory committee, which he suggested could be a sanctioned District group. The Board agreed that the Administrative Committee should include this in its recommendation to the Board regarding facilitating public input. Director Smith inquired whether such a group would be more appropriate for the District or for the neighborhood association, and Mr. Glass indicated that he felt it should be affiliated with the District, since the District had funds. The Board discussed which mechanism the citizens would find more comfortable, and the relative formality or lack of formality of each group. Director Gilmore inquired whether any other residents had expressed an interest in such a group, and Mr. Glass indicated that he had spoken with residents up and down the trail and felt there was interest. Director Smith agreed that the District had a well-educated and interested group of citizens, and it would be good to get them more involved in the District's activities. Director O'Donnell stated that one of the board members of the homeowners association was interested in getting involved in creek improvements within his neighborhood. He suggested Robert Wolfarth of the Brookside Homeowners Association as a possible citizen member of this proposed committee.

Director Walters then stated that the Board would consider the consent items on the Board's meeting agenda: the minutes of the May 1, 2001 regular meeting; the Finance Committee's recommendation regarding the payment of bills and invoices and write-offs, attached as Exhibits "D" and "E", respectively; and the Interlocal Agreement Regarding

Temporary Pass Through Water Service at the City of Austin for the Shoreline Church Tract, attached as Exhibit "F". The minutes were pulled for revisions, pursuant to the request of Director Smith. Upon motion by Director Gilmore and second by Director Smith, the Board voted unanimously to approve the Finance Committee's recommendations attached as Exhibits "D" and "E" and the Interlocal Agreement attached as Exhibit "F", as modified by the Board during previous discussions and with the final sign-off of the Agreement by Director Walters and Mr. Williams.

Director Walters then stated that the Board would receive a report from the Administrative Committee. After discussion, Director Gilmore agreed to coordinate with Mr. Williams on a meeting of the committee.

Director Walters then stated that the Board would receive a report from the Conservation Committee. Mr. Williams agreed to review his recommendation on rainwater collection with the committee and to report back to the Board at the next Board meeting. The Board agreed that Director O'Donnell should join this committee in place of Director Walters.

Director Walters then stated that the Board would receive a report from the Facilities Committee. Director Gilmore reviewed the committee's recommendation on a proposal for the impoundment of water near Wells Port Drive, as set forth in the draft letter attached as Exhibit "G". He also discussed the possibility of constructing a driving range off of Shoreline Drive, and the Board agreed that Mr. Williams should look into the cost and options. The Board discussed recreational tags, liability issues, and equipment needs relating to a driving range. The Board also agreed that Director O'Donnell and Director Gilmore should serve as an ad-hoc committee to look into the matter further. Mr. Williams expressed his opinion that a driving range was needed because a number of people were using the soccer field to hit golf balls, which could be dangerous. Mr. Williams then described a proposal to add another soccer field by Sauls Drive, which he felt he could fit into the existing area.

Director Howe then expressed her opinion that a fence should be constructed at the top of the Sauls Drive detention pond, which currently looked right into the apartments. She noted the fence could be constructed of the fencing material being removed as part of the fence replacement project. Director Walters inquired whether that pond could be removed when the new detention pond project was completed. Mr. Williams indicated that Mr. Ferguson had not yet confirmed that the pond could be removed. After discussion, the Board agreed to get input from the neighborhood on its desire relating to a fence at this location.

Mr. Williams then recommended the purchase of additional signs for the park. After discussion, the Board agreed that it would seek input from the residents on the possible impoundment of water near Wells Port Drive and on the construction of a fence at the Sauls Drive detention pond, and would proceed with construction of an additional soccer field and purchase of additional park signs as recommended by Mr. Williams.

At 8:20 p.m., Director Walters stated that the Board would take a short break. At 8:40 p.m., the Board reconvened in open session, and Director Walters stated that the Board

would next receive a report from the Intergovernmental Relations Committee. The Board agreed that Director Howe should discuss the pond maintenance issue with the District's lobbyist.

Director Walters then stated that the Board would receive a report from the Public Safety Committee relating to security checks for recreational tags. Director Gilmore expressed his interest in including enforcement at the basketball courts when tags were being checked, and also discuss facilitating the use of the basketball courts by recognized groups. After discussion, Director Walters noted that the District had policies in place that would accommodate use of all of its facilities, and stressed that the District should educate groups using these facilities about the options that were available. The Board agreed that the District's security officer should enforce the District's rules as written and, if there were questions, those should be referred to the District office. The Board discussed the fact that people had absconded with the dog waste disposal containers and dispensers, and alternatives were discussed, but no action was taken.

Director Walters then stated that the Board would receive a report from the Recreation Committee. Director Walters reviewed the memorandum attached as Exhibit "H", and discussed his desire to increase the benefits to individuals holding family, year-round tags. Director Gilmore offered to provide labor for the barbeque on July 4. Director Smith expressed concerns regarding the expense as well as changing peoples' expectations regarding the 4th of July activities. She also noted that she did not want to impair the sanctioned groups' ability to use the July 4th activities as a fundraiser. The Board agreed that there should be a distinction between the anniversary activities that had occurred recently and activities at the annual 4th of July celebration. The Board agreed that the District needed to recoup its costs for July 4th, and discussed changes in volunteer participation. Director Smith stated that she did not want to require the staff to have to commit to work on another holiday. After discussion, the Board agreed that the Recreation Committee should work with Mr. Williams on a proposal for this period. Mr. Williams reviewed the proposal for fireworks from Alpha-Lee Enterprises, Inc. at a cost of \$6,500.00, a copy of which is attached as Exhibit "I", which was approved upon motion by Director O'Donnell and second by Director Howe. Director Walters recommended that the 4th of July, Memorial Day and Labor Day be recognized as "swim-free" events. The Board concurred with the recommendation.

Director Walters then stated that the Board would receive announcements by Board members. Director Gilmore suggested that the Board schedule a retreat in the near future. The Board agreed that, at the next Board meeting, committee assignments should be reevaluated, and Director O'Donnell should be placed on appropriate committees. The Board encouraged Director O'Donnell to review past meeting minutes and the District handbook, which would generally assist him in preparing for service on the Board.

At 9:20 p.m., Ms. Wingrove left the meeting. At 9:23 p.m., Director Walters announced that the Board would convene in executive session for purposes permitted under Section 551.071 of the Texas Government Code, to receive advice from the District's attorney regarding matters appearing on the meeting agenda. At 9:43 p.m., the meeting was

reconvened in open session, and Director Walters stated that no action had been taken during executive session.

Director Smith then moved that the Board proceed with its suit against Mr. Delgado of 14207 Anita Marie, in connection with a restrictive covenant violation relating to the nuisance created by his barking dogs. Upon second by Director Howe, the motion was unanimously adopted. Director Smith then moved that in connection with the contractor that had damaged the District's fire hydrant, the Board authorize the District's attorney to prepare and forward a demand letter seeking recovery of the District's damages. Upon second by Director Howe, the motion was unanimously adopted. Director Smith then moved that the Board proceed with suit in connection with the violation created by the fence at 3700 Kissman Drive. Upon second by Director Howe, the motion was unanimously adopted.

There being no further business to come before the Board, the meeting was adjourned at 9:45 p.m.

(SEAL)

Scott Gilmore, Secretary  
Board of Directors

Date: \_\_\_\_\_