

**SPRING CREEK UTILITY DISTRICT**  
**Minutes of Meeting of Board of Directors**  
**May 15, 2023**

The Board of Directors (the “Board”) of Spring Creek Utility District (the “District”) held its regular monthly meeting in accordance with the duly posted notice of meeting and the Texas Open Meetings Act. The roll was called of the duly constituted officers and members of said Board, as follows:

Claude Humbert	-	President
Mark Fusca	-	Vice President
Frederick Sunderman	-	Secretary
Leslie Gourley	-	Assistant Secretary
Melvin Willcockson	-	Director

All of said members were present, thus constituting a quorum.

Also present were Monica Pena of Utility Tax Services, LLC (“Utility Tax”); Mason Mueller, Amber Hurd, and Candyce Ward of Cobb, Fendley & Associates Inc. (“C-F”); John Montgomery of Municipal Operations & Consulting, Inc. (“MOC”); Jonathan Roach, Ray Arce, and Jessica Gentry of Roach & Associates, PLLC (“RAPLLC”); Simon VanDyke and Calep Estes of Touchstone District Services (“Touchstone”); Bill Russell of Myrtle Cruz, Inc. (“Myrtle Cruz”); Aric Braddock of ASB Services, Inc. (“ASB”); Shane Sullivan of Volare Partners, LP, the Fieldhouse developer (“Fieldhouse”); Matthew Malmquist and Lindsey Adams of Riley Fuzzel Holdings (“RFH”); Aaron Alford of Woodmere Development; Ryan Fortner of Revenue Management Services (“RMS”); David Selesky of GFL Environmental (“GFL”); Eric Gonzalez of Clarity Consulting Corporation (“Clarity”); and Sergeant Carswell of Montgomery County Pct. 3 Constable’s Office (“MCC3”). [\* Remote Attendees]

Call to Order: President Humbert called the meeting to order.

### **PUBLIC COMMENTS**

There were no public comments.

### **SECURITY REPORT**

Sergeant Carswell presented the Security Report, attached hereto as **Exhibit “A,”** discussing incidents in the District from the preceding month. He then noted that a recent inspection on two (2) security vehicles received poor results, insinuating that they would soon be removed from the fleet. The Board then had a lengthy discussion regarding the continuous maintenance, trading, and replacement of HCC3’s vehicles. Next, Director Sunderman inquired about any updates on the security at their joint facility. Mr. Braddock and Sergeant Carswell confirmed they have discussed additional security options. Then Director Sunderman asked if the District could add something to its website that reflects the work accomplished by the Constables. Mr. VanDyke confirmed that they could post updates on the website without revealing too much personal information.

### **TAX ASSESSOR’S REPORT**

Ms. Pena presented the Tax Assessor's Report, attached hereto as Exhibit "B," noting three (3) delinquent personal property accounts from 2018 and 2019 that will be moved to uncollectables. After some discussion, Director Gourley motioned to approve the Tax Assessor's Report and to authorize the transfer of the delinquent personal property accounts to the District's uncollectable account. Director Fusca seconded the motion, which passed unanimously.

Ms. Pena exited the meeting.

### INSPECTOR'S REPORT

Mr. Braddock presented the Inspector's Report, attached hereto as Exhibit "C." Mr. Braddock then inquired about how the Board would like to move forward with the Forest Village swale, noting they had previously discussed the maintenance of the fountain. He further noted that the Homeowners Association ("HOA") may be responsible for the maintenance of the fountain. Then Mr. Roach explained that the HOA stated they would take on the fountain's electricity costs. Director Gourley suggested that the HOA take full responsibility for the maintenance and the electricity.

Next, Mr. Braddock confirmed that although the vegetation between Forest Village and Spring Forest Village does not affect the drainage system, several residents inside and outside the District have continued to complain. A lengthy discussion ensued regarding the ownership of the drainage system and how it has affected the District. The Board concurred for Mr. Roach to contact the HOA about the maintenance issue.

Mr. Braddock then discussed the Walmart pond, noting it has collapsed three (3) times since the District took ownership. He further stated that CDC had taken soil samples from the pond and determined it was not generating enough vegetation to stay intact. Mr. Braddock assured the Board that this was not an immediate task to be completed but wanted to ensure the Board was aware of the situation.

Messrs. Sullivan Malmquist entered the meeting during the discussion.

### OPERATOR'S REPORT

Mr. Montgomery presented the Operator's Report, attached hereto as Exhibit "D," and the Annual Drinking Water Quality Report. Mr. Montgomery then presented a complaint from a resident about an extremely high-water bill due to their neighbor stealing her water. After some discussion, Director Fusca motioned to reduce the resident's sewer rate to the minimum cost and the water rate not to exceed the use of 9,000 gallons. Director Gourley seconded the motion, which passed unanimously.

Next, Mr. Montgomery noted the HOA meters discussed at the Board's last meeting, inquiring on which San Jacinto River Authority ("SJRA") fee the Board wanted to bill the HOA for the several years of usage. After some discussion, Director Fusca motioned for the HOA to be billed the average SJRA rates from past years to the current year. Director Gourley seconded the motion, which passed unanimously.

Then, Mr. Montgomery explained some issues with a clarifier gear box at the Wastewater Treatment Plant, noting it has been producing brass shavings. After some discussion, Director Willcockson motioned for Mr. Montgomery to take care of any assessments, replacements, or repairs to the gear box system. Director Gourley seconded the motion, which passed unanimously.

Mr. Alford entered the meeting during the discussion.

## **COMMUNICATIONS REPORT**

Mr. VanDyke presented the Communications Report, attached hereto as **Exhibit “E,”** noting that the smart meter videos discussed at the last meeting are almost complete and should be posted to the website soon. After some discussion, Director Sunderman motioned to approve the Communications Report. Director Fusca seconded the motion, which passed unanimously.

## **CONSENT AGENDA: CONSULTANT REPORTS**

Director Fusca made a motion to approve the following consultant reports: (1) Security Report; (2) Inspector’s Report; and (3) Operator’s Report. Director Gourley seconded the motion, which passed unanimously.

## **GARBAGE COLLECTION REPORT**

Mr. Selesky noted that he attended the Board’s March meeting to discuss the new price increase rate for services. He then stated that the original letter sent out to the Board included an incorrect effective date of August 1, 2023, for the new rate. Mr. Selesky then confirmed that the new rate of \$21.50 would be effective April 1, 2023, and the CPI increase for August 1, 2023, would be waived. He then stated that the District had already been billed for April. The Board concurred.

Mr. Selesky exited the meeting.

## **CONSENT AGENDA: MINUTES**

The Board considered for approval the minutes for the April 17, 2023, regular meeting, and April 28, 2023, special meeting. After some discussion, Director Humbert motioned to approve the April 17, 2023, regular meeting minutes, subject to revisions. Director Gourley seconded the motion, which passed unanimously. Next, after some additional discussion, Director Gourley motioned to approve the April 28, 2023, special meeting minutes, subject to revisions. Director Fusca seconded the motion, which passed unanimously.

## **SALES TAX REPORT**

Mr. Fortner presented the Sales Tax Report, providing various updates on revisions made by the City of Houston (the “City”). Director Humbert inquired if the Bookkeeper provides the data for the Sales Tax Report. Mr. Fortner confirmed that he was getting this data from the City. Then, Director Humbert noted a numerical error in the Bookkeeper’s Report presented at the December 2022 Board meeting relating to the incorrect allocation of the money paid by Montgomery County Municipal Utility District No. 88’s (“MC88”) for the purchase of water capacity, noting this same numerical error is reflected in the Sales Tax Report. Director Humbert requested that it be corrected,

and Mr. Fortner confirmed he would correspond with Mr. Russell regarding the necessary revisions. After a lengthy discussion, Mr. Fortner confirmed he would correspond with Mr. Russell regarding the necessary revisions.

Director Sunderman noted that food trucks in the District are not paying sales tax. Mr. Fortner confirmed that he could contact the Comptroller regarding their lack of payment but advised that it may be difficult, considering how often these entities move around. Mr. Fortner further explained that food truck owners could pay sales tax according to the area listed on their permit, which may be a different location than the District.

Messrs. Malmquist and Fortner exited the meeting.

### **BOOKKEEPER'S REPORT**

Mr. Russell presented the Bookkeeper's Report, a copy of which is attached as **Exhibit "F."** He then discussed the transition of bookkeeping duties with Clarity, confirming that Myrtle Cruz had already sent the information needed for the audit and a copy of the most recent Bookkeeper's Report and checks to Clarity so they could provide a report to the Board at the June meeting. Next, he noted a few additional transition matters, including the revision of authority on TexPool and new signature cards for the deposit refund account. Next, Director Humbert pointed out a few budget comments approved at the last meeting that still needs to be implemented in the budget but would discuss this with Clarity. Finally, the Board thanked Mr. Russell for his service to the District.

### **ENGINEER'S REPORT**

Mr. Mueller presented the Engineer's Report, a copy of which is attached hereto as **"Exhibit G,"** and he provided updates on the following:

(1) General District Engineering: (a) Water Capacity Analysis, noting the surface water feasibility study could impact the sizing of a future water plant site. He then confirmed that MOC had completed the pressure testing and is now moving forward with the water modeling toward the ACR renewal; (b) Fox Run Drainage Analysis, noting that they have coordinated with Montgomery County DD6 ("MCDD6") on the potential mitigation options. He further stated that MCDD6 has available regional detention for purchase at approximately \$150,000 per Fox Run's Section 1 system, for a total of \$300,000 to provide mitigation for the project. He further advised this would only require the construction of the storm sewer line. After some discussion, Director Willcockson motioned to authorize C-F to proceed with the drainage analysis for the Fox Run Section 1 sewer system, subject to review by RAPLLC. Director Gourley seconded the motion, which passed unanimously; and (c) WWTP Discharge Permit Renewal, noting the permit application has been submitted to the Texas Commission on Environmental Quality ("TCEQ") and has been declared administratively complete. He further noted that they are awaiting a TCEQ notification confirming the completion of a technical review before conducting an additional round of publications.

Next, Mr. Mueller discussed Forest Village Section One, noting the survey group mobilized to verify the flowline and elevation conditions of the concrete storm sewer ditch at the west edge of Forest Village Section One. Mr. Mueller then presented a proposal for confirming property corners for the Board's consideration. Mr. Alford noted that the concrete storm sewer ditch in

Forest Village Section 1 was reimbursed in a bond application after it was installed but was not deeded to the District. He further noted it was his understanding that the District had reimbursed the developer for the original swale and the concrete addition built later. Director Fusca requested that Mr. Alford send documentation reflecting these reimbursements to RAPLLC for review, noting they have not seen any paperwork stating the District paid for the additional concrete added after the swale was built. Mr. Alford confirmed that he would send this documentation to RAPLLC. Director Gourley explained that there has been dumping from residents inside and outside the District, causing blockage to the drainage system. Then, a lengthy discussion ensued regarding a monthly maintenance service to clean the drainage system to avoid any blockage issues if a rain event occurs. Director Fusca motioned to approve C-F's survey proposal. Director Gourley seconded the motion, which passed unanimously. Director Fusca then inquired whether a couple of Board members should attend the HOA's next meeting to discuss the maintenance. The Board concurred for Director Fusca and Director Gourley to attend the HOA's next meeting.

Then, Mr. Mueller discussed the District Building, presenting an in-progress draft Request for Qualifications ("RFQ") for further discussion on the proposed design-build District Building. Mr. Mueller advised that the Board could hold a special meeting to discuss the details of their Administrative Building further. Director Gourley inquired about the number of vehicles the parking lot would hold, whereby Mr. Mueller confirmed he would retrieve that information. Next, Director Sunderman asked how the location of the new building would be affected by flooding incidents. Director Humbert noted that this had been discussed previously and the District Inspector had confirmed that this area had not flooded in the past. Director Sunderman then inquired if there would be storm drains near the building. Mr. Braddock confirmed that there are storm drains already installed.

Mr. Mueller then discussed the Reclaimed Water System, presenting a proposal for performing a feasibility analysis of a proposed reclaimed water system. Mr. Mueller noted that the Board had previously expressed the desire to discuss the "purple pipe project" during the upcoming annual review of the 10-year CIP. He further stated that the first step is to conduct a feasibility analysis to identify the cost, and then they can determine the timeline. After some discussion, Director Gourley motioned to authorize C-F to move forward with the feasibility analysis of a proposed reclaimed water system. Director Fusca seconded the motion, which passed unanimously.

(2) District Projects (*Design*): Fieldhouse Utility Extension, noting C-F is continuing the design for the proposed public waterline and sanitary sewer force main extension to serve the Fieldhouse development, confirming a survey that obtained field data.

(3) District Projects (*Construction*): (a) Fox Run Water Line Rehabilitation Phase 1, confirming the contractor has completed the contract, including the site restoration. He then presented and recommended payment of Pay Estimate No. 9 and Final for \$161,149.97 payable to SKE Construction, LLC ("SKE"). After some discussion, Director Gourley motioned to approve Pay Estimate No. 9 and Final, as noted above. Director Willcockson seconded the motion, which passed unanimously; and (b) Fox Run Water Line Rehabilitation Phase 2, noting the contractor began work on May 1, 2023, and that it is his understanding that Montgomery County has not yet approved the plans.

Mr. Malmquist noted that the funding climate has changed, and they have started pulling funding from a different source to develop their 2121 Riley Fuzzel project. He then indicated that

the project is ready to be started and noted a few requirements from TxDot. Mr. Malmquist then stated that they have two (2) tracts they could begin work on, indicating that one will take about ninety (90) days while the other may take approximately one (1) year.

(4) Development Projects: (a) BCS Capital Group, LLC - Locke Tract, noting C-F is continuing a drainage impact analysis for service to the Locke annexation tract. The Board then had a lengthy discussion regarding Lockeridge pond and the drainage analysis; and (b) Fieldhouse Project - 2007 Riley Fuzzel Road, noting it was his understanding that Fieldhouse deposited funds with the District for the design of the proposed waterline and sanitary sewer force main extension. He further stated that C-F is proceeding with the design at this time.

After some discussion, Director Willcockson motioned to approve the Engineer's Report. Director Gourley seconded the motion, which passed unanimously.

### **DISTRICT ADMINISTRATION BUILDING OPTIONS**

This item was discussed under the Engineer's Report.

### **PROPOSED WATER WELL NO. 3**

There was nothing new to report.

### **PHASE 2 WATER LINE REHABILITATION, INCLUDING THE BUYBOARD PROGRAM**

This item was discussed under the Engineer's Report.

### **ARBITRAGE REPORT**

Mr. Roach noted that he is awaiting additional information from Municipal Risk Management Group, LLC ("RMG"). Director Humbert stated that the Arbitrage report dated May 2, 2023, looked good, other than the statement on the remaining bond amount for the \$7,770,000 Unlimited Tax Refunding Bonds, Series 2021A. Mr. Roach noted he would contact the District's Financial Advisor for clarification.

### **RE-ALLOCATION OF SERIES 2021 BOND FUNDS AND DEVELOPER REIMBURSEMENTS**

Mr. Roach noted that he had followed up with the TCEQ regarding the status of the Bond Application, whereby they confirmed the application is in review. Director Humbert stated that the Board agreed to reimburse the Woodmere Development at their last meeting, subject to the pre-purchase inspection and audit of the developer's records. Mr. Roach then noted that the requirements could be waived because these are re-allocated funds coming out of the District's operating account but advised that the District await TCEQ confirmation.

Director Sunderman noted that the interest rates have increased, and developers are receiving their money at these higher rates.

### **GENERAL REVIEW OF WATER SUPPLY OPTIONS AND PENDING CIP PROJECTS**

This item was discussed under the Engineer's Report.

### **FUTURE REQUIREMENTS FOR LEAD AND COPPER RULES**

There was nothing new to report.

### **PREVENTATIVE MAINTENANCE PROGRAM**

There was nothing new to report.

### **DEVELOPING DISTRICT STATUS**

Director Humbert recommended the District maintain its status as a "developing" District and inquired about any documentation that may need to be submitted by C-F. Mr. Roach noted that a resolution would need to be completed with an exhibit provided by C-F but further indicated that an exhibit is not required since it does not have to be submitted to the TCEQ. After some discussion, Director Fusca motioned to authorize RAPLLC to draft a Resolution Concerning the Developing District Status without the exhibit. Director Gourley seconded the motion, which passed unanimously.

### **DEVELOPERS' REPORT**

Mr. Alford explained that he has worked with the title company on the land conveyance retention and southern reserve and confirmed that the title had been cleaned up. He then discussed issues regarding the de-annexation of the property from the HOA and further agreed to deed the property while addressing the reimbursement at a later date. Finally, Mr. Alford reported the recent sales within Forest Village, noting only forty (40) lots remaining until they are finished. Next, Mr. Roach provided an update on the Pendelton tracts, noting he is waiting for a legal description.

### **JOINT FACILITIES ADVISORY COMMITTEE MATTERS, INCLUDING DOWNSTREAM ISSUES**

Mr. Russell recommended that the District, MC88, and Montgomery County Municipal Utility District No. 89 ("MC89") have McCall Gibson Swedlund Barfoot, PLLC ("MGSB") conduct an audit regarding the cost-sharing issues with SJRA fees to ensure there are no inconsistencies. Then Director Humbert asked Clarity to properly monitor the cost-sharing of the SJRA fees to avoid this from happening in the future. He then agreed that MGSB's audit would not create a conflict of interest or interference with the truth, but stated a third-party would be unnecessary when all three (3) District's have the same Bookkeeper. Next, a lengthy discussion ensued regarding a potential audit for the SJRA cost-sharing fees.

Director Sunderman and Mr. Alford exited the meeting during the discussion.

### **DIRECTOR'S REPORT**

Director Humbert discussed the most recent SJRA meeting, noting the SJRA was unwilling to provide water to the District because they did not have available capacity due to the

current budget restrictions. He then mentioned that the Lonestar Groundwater Conservation District (“LSGCD”) approved the revised “Groundwater Management Plan” at their recent Board meeting.

Director Sunderman re-entered the meeting.

Director Sunderman noted he did not attend the Region 6 Flood Planning Group (“Region 6”) but briefly reviewed their state and federal funds request and flood control plan. Directors Humbert and Fusca confirmed they attended the Region 6 Open House regarding the two (2) proposed dams in Montgomery County. Director Humbert noted that both projects were having an issue due to a subdivision being planned on one site and a solar farm being developed on the other. Director Sunderman suggested the District request state and federal funds for future flood control projects. A discussion ensued about projects that could be submitted for funding. Director Sunderman suggested that the Board be ready to submit a project by the next legislative session.

### **TECHNOLOGY/WEBSITE UPDATES, INCLUDING SB2 AND HB1154, AND DROPBOX SIZING MATTERS**

Mr. Roach discussed Dropbox, noting that the Board has used up its free space, and the District will need to determine whether to upgrade Dropbox’s storage. Director Fusca advised that accessing Dropbox through a link would still allow you to use the program without paying for extra storage. A lengthy discussion ensued about whether they should use the existing link or purchase a subscription to expand their Dropbox space.

Mr. Roach noted that RAPLLC will be attending a deposition on the Board’s behalf on May 26, 2023. He explained that the Quadvest attorney had requested information about alternative water sources considered by the District. Director Humbert noted that MC89’s attorney had gone through a similar request earlier. Mr. Roach stated RAPLLC did not have the requested documentation and declined the request, and therefore, Quadvest has decided to depose the District. Mr. Roach confirmed that he would provide what limited information RAPLLC has and attempt to answer their questions the best he can.

### **EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE, SECTION 551.071, 551.074, ET. SEQ.**

The Board did not enter into executive session.

### **DISCUSS PENDING BUSINESS AND MATTERS FOR FUTURE AGENDAS**

Director Fusca noted that he would like to discuss constable funding at the next meeting.

The Board concurred to reconvene for a special meeting on June 27, 2023, to review and discuss the 10-year CIP pertaining to Water Infrastructure. The Board also concurred to hold their next regular meeting on June 19, 2023, at 5:00 p.m. After no further discussion, Director Gourley motioned to adjourn the meeting. Director Fusca seconded the motion, which passed unanimously.



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Passed and approved this 19<sup>th</sup> day of June 2023.

/s/ Frederick Sunderman  
Secretary, Board of Directors

[SEAL]



**LIST OF EXHIBITS**

- Exhibit A - Security Report
- Exhibit B - Tax Assessor's Report
- Exhibit C - Inspector's Report
- Exhibit D - Operator's Report
- Exhibit E - Communications Report
- Exhibit F - Bookkeeper's Report
- Exhibit G - Engineer's Report

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