

**SPRING CREEK UTILITY DISTRICT**  
**Minutes of Meeting of Board of Directors**  
**June 19, 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, except Director Sunderman, who entered later in the meeting, thus constituting a quorum.

Also present were Monica Pena of Utility Tax Services, LLC (“Utility Tax”); Mason Mueller and Amber Hurd of Cobb, Fendley & Associates Inc. (“C-F”); John Montgomery of Municipal Operations & Consulting, Inc. (“MOC”); Jonathan Roach, Ray Arce\*, Jessica Gentry, and Matt Ognisty of Roach & Associates, PLLC (“RAPLLC”); Michael Willett and Calep Estes of Touchstone District Services (“Touchstone”); Brian Desilets of Clarity Consulting Corporation (“Clarity”); Aric Braddock, who entered later in the meeting, of ASB Services, Inc. (“ASB”); Shane Sullivan and Susanne McLeod of Volare Partners, LP, the Fieldhouse developer (“Fieldhouse”); Lindsey Adams, who entered later in the meeting, of Riley Fuzzel Holdings (“RFH”); Aaron Alford of Woodmere Development; and Sergeant J. Orr of Montgomery County Precinct 3 Constable’s Office (“MCC3”).  
[\* Remote Attendees]

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

**PUBLIC COMMENTS**

There were no public comments.

**CONSENT AGENDA: MINUTES**

The Board considered for approval the minutes from the May 15, 2023, regular meeting. After some discussion, Director Willcockson motioned to approve the May 15, 2023, regular meeting minutes, as amended. Director Gourley seconded the motion, which passed unanimously.

**CONSENT AGENDA: CONSULTANT REPORTS**

Director Gourley motioned to approve the following consultant reports: (1) Tax Assessor’s Report, attached hereto as **Exhibit “A”**; (2) Inspector’s Report, attached hereto as **Exhibit “B”**; (3) Operator’s Report, attached hereto as **Exhibit “C”**; and (4) Communications Report, attached hereto as **Exhibit “D.”** Director Willcockson seconded the motion, which passed unanimously.

Ms. Pena noted that the District’s assessed taxable preliminary value is \$976,704,352.

Ms. Pena exited the meeting.

## **SECURITY REPORT**

Sergeant Orr noted vehicles #3043 and #3044 need replacement due to their high ranking at the last inspection. He further explained that the rankings are on a scale of one (1) to fifteen (15), and once a vehicle reaches an approximate ranking of ten (10), they start looking to replace them. A lengthy discussion ensued regarding the need to replace one or both vehicles and ensure the replacement cost would be within the District's budgeted amount. Then, Director Fusca motioned to replace vehicles #3043 and #3044, subject to availability within the District's budget. Director Gourley seconded the motion, which passed unanimously.

Director Willcockson inquired if MCC3 would go out for vehicle bids or if they would purchase new cars. Mr. Montgomery confirmed that MCC3 would bid on the vehicles first. Sergeant Orr stated that they could not make any purchases until the money from the District was provided. Director Gourley requested that MCC3 offer quotes for replacement vehicles. Sergeant Orr confirmed he would have quotes sent to the Board. Director Humbert inquired if this process would require an amendment to their interlocal agreement with MCC3. Mr. Roach confirmed this would not require an amendment, considering they will still have the same number of vehicles originally agreed on. Then, a lengthy discussion ensued regarding annual vehicle inspections and how to prepare for replacements in the future.

Mr. Braddock and Ms. Adams entered the meeting during the discussion.

Director Sunderman entered the meeting, via teleconference, during the discussion.

## **GARBAGE COLLECTION REPORT**

Mr. Roach noted there was nothing new to report. Director Gourley pointed out that renters in the community have been leaving excessive amounts of trash for pickup when they move out and suggested these renters be back charged. A discussion ensued regarding an increase in price for garbage collection services to renters. The Board concurred to defer this item until their next regular meeting.

Sergeant Orr exited the meeting during the discussion.

Director Sunderman entered the meeting in person.

## **BOOKKEEPER'S REPORT**

Mr. Desilets presented the Bookkeeper's Report; a copy is attached as **Exhibit "E,"** noting he has received the necessary paperwork and confirmed that Myrtle Cruz has been accommodating with the transition process. He further stated that he had not been able to access the District's bank information and bank statements due to his unsigned contract, but confirmed now that his agreement had been executed, he would be able to access that information soon.

Director Sunderman inquired if the District is at risk for having too much money in TexPool. Mr. Desilets advised that there is no risk and that the District generates a large amount of money each month due to a five (5) percent interest rate. Director Sunderman then inquired if Mr. Desilets had reviewed alternative options to TexPool. Mr. Desilets advised that Texas Class's interest rate is

5.2%, noting that its online system is more flexible than TexPool. Then the Board discussed a possible transition from TexPool to Texas Class.

Next, Director Humbert pointed out check #15515, payable to Badger Meter, noting they charged for more units than they have connections. After some discussion, Director Sunderman motioned to open an account and transfer their money from TexPool to Texas Class. Director Gourley seconded the motion, which passed unanimously. Then, Director Fusca motioned to approve the Bookkeeper's Report, except for check #15515, payable to Badger Meter. Director Gourley seconded the motion, which passed unanimously.

Mr. Sullivan and Ms. McLeod entered the meeting during the discussion.

Mr. Braddock temporarily exited the meeting during the discussion.

### **DISTRICT ADMINISTRATION BUILDING OPTIONS**

Mr. Mueller noted that they presented a draft Request for Qualifications ("RFQ") at the Board's last meeting. He further advised that the Board review specific changes to a highlighted portion in said RFQ. Director Humbert noted he had no comments. Director Humbert then inquired if the project scope included the internal audio and visual installation or if it was solely for the building itself. Mr. Mueller confirmed the current scope was for the building only but could still implement the audio and visual installation into the RFQ. After some discussion, Director Sunderman motioned to authorize C-F to continue with the RFQ package and to advertise bids for the design builders. Director Gourley seconded the motion, which passed unanimously.

Mr. Ognisty temporarily exited the meeting.

### **ENGINEER'S REPORT**

Mr. Mueller presented the Engineer's Report, a copy of which is attached hereto as "**Exhibit E,**" 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 further noted that C-F has continued water modeling toward the Alternative Capacity Request ("ACR") renewal and provided an exhibit depicting the connection counts for each pressure plane; (b) Fox Run Drainage Analysis, noting C-F has coordinated with Montgomery County Drainage District No. 6 ("MCDD6") on potential mitigation options and confirmed MCDD6 has available regional detention for purchase. He further noted that C-F would send the completed drainage study to MCDD6 upon legal review by RAPLLC; (c) WWTP Discharge Permit Renewal, noting C-F has submitted the permit application to the Texas Commission on Environmental Quality ("TCEQ"), which has been declared administratively complete and are now awaiting the TCEQ's confirmation of a completed technical review before conducting an additional round of publications; (d) Forest Village Section One, noting C-F's survey group confirmed the property boundaries surrounding the concrete storm sewer ditch at the western edge of Forest Village Section One; (e) District Building, which was discussed earlier in the meeting; and (f) Reclaimed Water System, noting C-F is preparing a feasibility analysis of a proposed reclaimed water system.

Director Humbert inquired if there were any issues with the slope while conducting the Forest Village drainage ditch analysis. Mr. Mueller confirmed there were no issues and that

everything was complete. The Board then discussed possible flood events and the swale being used for Forest Village only. Next, Director Gourley inquired about the status of Water Well No. 3. Mr. Mueller noted that once the ACR amount has been confirmed with the TCEQ, they can discuss whether it will be a water well or a water plant.

(2) District Projects (*Design*): (a) Fieldhouse Utility Extension, noting C-F is continuing design for the proposed public waterline and sanitary sewer force main extension to serve the Fieldhouse development. He further indicated that C-F determined with the developer that an additional extension design of the sanitary sewer force main would be required, with the updated construction cost estimate totaling \$345,000.

(3) District Projects (*Construction*): (a) Fox Run Water Line Rehabilitation Phase 1, confirming the project is now complete; and (b) Fox Run Water Line Rehabilitation Phase 2, noting the contractor began work on May 1, 2023, mobilizing, locating the waterline, and coordinating the private utility locates. He further indicated that Montgomery County has not yet approved the plans.

(4) Development Projects: (a) BCS Capital Group, LLC - Locke Tract, requesting Board authorization to present a water, sanitary sewer, and detention pond expansion proposal for service to the Locke annexation tract; and (b) Fieldhouse Project - 2007 Riley Fuzzel Road, noting C-F provided review comments to the proposed Fieldhouse development plans.

After some discussion, Director Fusca motioned to approve the Locke Tract Public Utility Extension proposal, subject to the Homeowners Association (“HOA”) being updated during the process. Director Gourley seconded the motion, which passed four-to-one (4-1) with Director Sunderman abstaining.

Messrs. Ognisty and Braddock re-entered the meeting during the discussion.

### GENERAL REVIEW OF WATER SUPPLY OPTIONS AND PENDING CAPITAL IMPROVEMENT PLAN (WATER) PROJECTS

Director Humbert noted they would discuss this item at a special meeting on June 27, 2023, at 4:00 p.m.

### ARBITRAGE REPORT

Mr. Roach confirmed that no arbitrage is due. He then noted the Series 2018 Bonds has a five (5) year report due sixty (60) days from May 15, 2023. Mr. Roach confirmed that the District is in compliance with the Internal Revenue Service (“IRS”) rules.

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

Mr. Roach confirmed that Mr. Alford had followed up with the TCEQ regarding the submissions for reimbursement. He further noted Mr. Alford’s request that the District reimburse Woodmere using the District’s excess available general operating funds (GOF), subject to completion of a TCEQ pre-purchase inspection and a reimbursement audit. Mr. Roach then advised these that it is possible these conditions could be completed by the District’s next regular meeting. He also explained that this would actually be a ‘pre’-pre-purchase inspection rather than waiting for

TCEQ approval on the final inspection. After some discussion, Director Willcockson motioned to approve an initial 70% reimbursement to Woodmere from the District's excessive available GOF, subject to completion of the pre-pre-purchase inspection and reimbursement audit, with the additional 30% upon final TCEQ approval. Director Gourley seconded the motion, which passed unanimously.

### **DEVELOPING DISTRICT STATUS**

Mr. Roach noted that this is an annual requirement and that a Resolution has been drafted. After some discussion, Director Fusca motioned to approve the Resolution Concerning Developed District Status for the 2023 tax year to reflect the District as "developing." Director Gourley seconded the motion, which passed unanimously.

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

There was nothing new to report.

### **PREVENTATIVE MAINTENANCE PROGRAM**

There was nothing new to report.

### **DEVELOPERS' REPORT**

Mr. Alford noted seventeen (17) sales year to date and approximately fifty-five (55) lots left.

Next, Mr. Sullivan presented an update on the Fieldhouse development, noting the importance of staying on track with time. He then explained that plans must be submitted to the Texas Department of Transportation ("TxDot") for approval, which can take a long time. He further explained that he would like to implement the bidding process parallel to the TxDot waiting period to expedite time. Mr. Sullivan noted that they plan to open in late November of 2023 and confirmed the project is quick to complete, but noted the only setback would be waiting for water and sewer. Then, Mr. Sullivan explained several activities they would have at the park to bring the community together. After some discussion, Director Fusca motioned to authorize the bidding process to coincide with TxDot's review of their plans. Director Gourley seconded the motion, which passed unanimously.

Messrs. Sullivan, Alford, and Ms. McLeod exited the meeting.

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

Director Humbert noted that Myrtle Cruz has reviewed the data on the cost-sharing issue between Montgomery County Municipal Utility District No. 88 ("MC88") and Montgomery County Municipal Utility District No. 89 ("MC89"). He then stated the amount owed by MC88 is \$265,976.81, and the amount owed by MC89 is \$363,623.71, confirming it would be presented as two separate invoices. Director Gourley inquired about which fund this money should be deposited to, whereby Mr. Montgomery confirmed that the collected money would go to the District's GOF. Director Humbert noted that since this is nonrecurring income, it should be added as a separate line item in the budget. Then, a lengthy discussion ensued regarding the San Jacinto River Authority ("SJRA") billing.

## **DIRECTOR'S REPORT**

Director Humbert noted that an MC89 representative was in attendance at last month's San Jacinto River Authority's ("SJRA") meeting. He then stated that the SJRA agreed to authorize a sum of \$50,000 for a study to determine the cost of adding additional water to new users. He further noted it would take approximately five (5) to six (6) months to receive accurate numbers.

Next, Director Humbert noted that Jace Houston resigned as General Manager of SJRA. He then indicated that he received a letter from Lone Star Groundwater Conservation District ("LSGCD") regarding subsidence at the end of the previous month. A lengthy discussion ensued regarding subsidence studies, financing, potential interested parties, and eligible projects. Mr. Montgomery noted an issue where LSGCD attempted to charge the District for "overpumpage" and confirmed it was a miscalculation. Then, a lengthy discussion ensued regarding the protest of fees from the LSGCD.

Director Sunderman noted that a District was funded \$500,000,000 by the House of Representatives. He then explained that District flood plans would receive significant funding if they had qualified projects. Director Sunderman said the District will not receive funding if their project is not on the final list. He further indicated that the District has never submitted any projects and reviewed examples of qualified and unqualified projects.

## **REVIEW OF THE ETHICS AND FEES OF OFFICE POLICY**

Mr. Roach noted that the 2023 Legislative Session passed House Bill 2815, which increased Director per diems from \$150 per day to \$221, further advising that the yearly cap of \$7200 remains unchanged.

## **RECORDS PROCESSING AND DESTRUCTION REQUEST**

Mr. Roach asked the Board to consider approval of the destruction of old copies of prior Board meeting notes as allowed by applicable law. He reminded the Board that RAPLLC retains electronic copies of virtually all District records and that copies of all official meeting minutes are kept in perpetuity. After some discussion, Director Gourley motioned to authorize the destruction of old paper copies of prior Board meeting notes. Director Fusca seconded the motion, which passed unanimously.

## **VOTING SYSTEM ANNUAL FILING FORM**

Mr. Roach noted that the Board is required annually to file a form with the Secretary of State ("SOS") regarding the voting system(s) the District may have used during the year and asked for authorization for RAPLLC to complete and file the form on behalf of the District, as necessary. Director Fusca motioned to authorize the voting system annual filing form submission. The motion was seconded by Director Gourley and passed unanimously.

## **2023 LEGISLATIVE UPDATES**

A discussion ensued about additional legislative bills relating to the Extra-Territorial Jurisdiction ("ETJ"). Mr. Roach noted that RAPLLC is working on a summary of the bills passed during the 2023 Legislative Session.

Mr. Roach noted that the Quadvest deposition regarding the SJRA required written answers with verbal confirmation of said answers. He then confirmed that he would have a follow-up call to clarify all the submitted documentation.

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

Mr. Willett noted that the Director's hotspot issues were due to billing and account management. He further explained that Touchstone could not get credentials from the previous vendors to manage the Director's accounts. Mr. Willett then noted that either the District's Bookkeeper or a Director would need to confirm the billing with Verizon. Mr. Desilets confirmed that he would contact Verizon about this issue.

Director Fusca noted that if their Director email accounts were to get hacked, the link to their Dropbox account would give the hacker access to all their files. Mr. Roach confirmed that all documents in the Director's Dropbox accounts are already public documents, noting all confidential documents are only in RAPLLC's Dropbox.

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

The Board discussed additional agenda items to be added for their special meeting on June 27, 2023, at 4:00 p.m.

Mr. Montgomery noted an issue with the Fox Run Homeowners Association ("HOA") billing indicating approximately 3.54 million gallons worth of unpaid water usage. He further indicated that the HOA had not paid for said amount as reflected in the last three (3) bills. The Board then discussed the water rate tiers, SJRA and LSCGD rates, and the statutory limits. Mr. Montgomery confirmed that he would contact the HOA the next day to discuss.

Then, Mr. Montgomery noted that MOC has been reviewing the CPIs for their Districts and noticed that they have not had an amendment to their contract with the District since January 2022. The Board agreed to discuss this further at their next regular meeting.

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

The Board entered into executive session at 8:10 p.m.

### **RECONVENE IN OPEN SESSION AND AUTHORIZE ANY ACTION RESULTING FROM EXECUTIVE SESSION**

The Board reconvened in open session at 8:26 p.m.

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

The Board concurred to reconvene for a special meeting on June 27, 2023, at 4:00 p.m. and hold their next regular meeting on July 17, 2023, at 5:00 p.m. After no further discussion, Director Sunderman motioned to adjourn the meeting. Director Willcockson seconded the motion, which passed unanimously.

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Passed and approved this 21<sup>st</sup> day of August 2023.

/s/ Frederick Sunderman  
Secretary, Board of Directors

[SEAL]



**LIST OF EXHIBITS**

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