

**SPRING CREEK UTILITY DISTRICT**  
**Minutes of Meeting of Board of Directors**  
**April 17, 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, Amber Hurd, and Candyce Ward of Cobb, Fendley & Associates Inc. (“C-F”); John Montgomery, who entered later in the meeting, of Municipal Operations & Consulting, Inc. (“MOC”); Jonathan Roach\*, Ray Arce, Debbie Gentry\*, and Jessica Gentry of Roach & Associates, PLLC (“RAPLLC”); Michael Willett, who entered later in the meeting, and Calep Estes of Touchstone District Services (“Touchstone”); Bill Russell of Myrtle Cruz, Inc. (“Myrtle Cruz”); Aric Braddock of ASB Services, Inc. (“ASB”); and Shane Sullivan of Volare Partners, LP, the Fieldhouse developer (“Fieldhouse”).  
[\* 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 March 20, 2023 regular meeting, March 29, 2023 special budget meeting, and March 29, 2023 special Joint Facilities Advisory Committee (“JFAC”) meeting. After some discussion, Director Fusca motioned to approve the March 20, 2023 regular meeting minutes, subject to revisions. Director Gourley seconded the motion, which passed unanimously. Next, after some additional discussion, Director Willcockson motioned to approve the March 29, 2023 special budget meeting minutes, subject to revisions. Director Gourley seconded the motion, which passed unanimously.

Director Gourley then temporarily exited the meeting.

Finally, after further discussion, Director Willcockson motioned to approve the March 29, 2023 special JFAC meeting minutes. Director Fusca seconded the motion, which passed three-to-zero (3-0), with Director Gourley absent from the vote.

Mr. Willett entered the meeting, and Director Gourley re-entered the meeting.

## CONSENT AGENDA: CONSULTANT REPORTS

Director Fusca made a motion to approve the following consultant reports: (1) Security Report, attached hereto as Exhibit “A”; (2) Tax Assessor’s Report, attached hereto as Exhibit “B”; (3) Inspector’s Report, attached hereto as Exhibit “C”; (4) Operator’s Report, attached hereto as Exhibit “D”; and (5) Communications Report, attached hereto as Exhibit “E.” Director Gourley seconded the motion, which passed unanimously.

## COMMUNICATIONS REPORT

Mr. Willett noted that the smart meter videos were not transferred to the District’s website during the communications transition from Triton Consulting Group (“Triton”) to Touchstone. He then inquired if the Board would like Touchstone to present a proposal for new videos rather than attempting to retrieve the old ones from Triton. Director Humbert noted that it would be more cost-effective and beneficial for the website to have newly updated videos anyway. The Board concurred and authorized Mr. Willett to prepare a proposal for filming the new videos.

## DISTRICT ADMINISTRATION BUILDING OPTIONS

Director Humbert noted that the Board should decide on the location of the Administration Building soon. After discussion regarding various locations, the Board concurred to build the facility Fox Springs Park.

Next, Ms. Hurd gave a presentation on the Engineer’s procurement methods regarding the different bidding processes. Director Humbert inquired how C-F would be involved in these processes, whereby Ms. Hurd confirmed that they would be a third-party administrator over the project. Director Humbert confirmed that the Board is looking for a design-build option, consisting of the chosen entity providing both design and construction services, before discussing the budget for the project. Director Humbert then inquired if the contractors could attend the next or a special Board meeting. Ms. Hurd advised that C-F would first need to prepare a proposal for the Board’s approval, and then they would send out qualification packages to contractors, after which they could invite the contractors to the meeting. She then confirmed that she would provide a proposal for the next meeting.

Mr. Braddock entered the meeting at this time.

## RESOLUTION AUTHORIZING ADDITIONAL PENALTY ON DELINQUENT REAL PROPERTY TAXES

Mr. Roach advised that, pursuant to the Texas Property Tax Coe, the District could impose an additional penalty of up to 20% on delinquent real property taxes as of July 1<sup>st</sup> of each year and that the penalty essentially covers the costs of collections pursuant to the delinquent tax collections contract with the District. After no discussion, Director Fusca motioned to adopt a Resolution Authorizing an Additional Penalty on Delinquent Real Property Taxes for 2023. Director Gourley seconded the motion, which passed unanimously.

## BOOKKEEPER’S REPORT

Mr. Russell presented the Bookkeeper’s Report, a copy of which is attached as Exhibit “F”, and he noted an additional per diem check requested by Director Sunderman. Mr. Russell then

advised that Myrtle Cruz would be with the District until the end of May so that they could close the books after the annual bookkeeping records are transferred to the District's auditor.

Mr. Arce noted that RAPLLC received a proposal for bookkeeping services from Clarity Consulting Corporation but is still awaiting responses from at least two (2) other companies. Next, Director Fusca requested two (2) additional checks for vendors setting up at the Water Smart Event on April 18, 2023. Then Mr. Russell confirmed that he would update the debt service worksheet by the next meeting.

After no further discussion, Director Willcockson motioned to approve the Bookkeeper's Report, subject to holding one check written to A&S Engineers Inc. ("A&S") until further review. Director Gourley seconded the motion, which passed unanimously.

Ms. Pena exited the meeting during the discussion.

### **ENGAGE AUDITOR TO PREPARE AUDIT FOR FYE APRIL 30, 2023**

Mr. Roach explained to the Board that the District's current contract with McCall Gibson Swedlund Barfoot, PLLC ("MGSB") is an evergreen engagement and will automatically renew with the Board's approval. Director Fusca then motioned to approve the automatic renewal of the District's contract with MGSB. Director Gourley seconded the motion, which passed unanimously.

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

Mr. Roach noted that he had followed up with the reviewer at the Texas Commission on Environmental Quality ("TCEQ"), who is currently confirming that they received all the documents required for their review. Mr. Roach further noted that the reviewer assured him that once all the information had been collected, the application would be expeditiously.

Mr. Roach then noted a request from Aaron Alford (the "Developer") for possible reimbursement prior to TCEQ review of the aforementioned application. Mr. Roach explained certain rules which allow a District to reimburse a developer up to 70%, subject to a pre-purchase inspection and an audit of the Developer's records among other requirements. Mr. Roach then noted some concern that the TCEQ had not confirmed the final reimbursement amount, but he advised that the District could hold back some portion of the prospective reimbursement to cover any difference. Director Gourley asked about an estimate of the total reimbursement amount, whereby Mr. Roach noted approximately \$1,809,000 based on the submitted application. Director Humbert pointed out that the District has approximately \$2,940,000 in approved bond/construction funds, so the District should have more than enough to cover the partial and likely full reimbursement. A lengthy discussion ensued regarding the amount owed and the timing of transferring of funds and related matters.

After further discussion, Director Humbert motioned to reimburse the Developer up to 70% of the total anticipated reimbursable project amount, subject to completion of the TCEQ pre-purchase inspection, a walkthrough of the facilities, and an audit of the Developer's records as discussed. Director Gourley seconded the motion, which passed unanimously.

### **DEVELOPERS' REPORT**

Mr. Roach noted that there are several remaining title and related issues regarding the conveyance of the Forest Village detention pond and fountain and advised that the matter be deferred until such title matters affecting the property have been resolved. He then noted that the Developer had indicated he understands and is working with the title and RAPLLC to address those matters. Mr. Roach also confirmed that the 70% reimbursement discussed above does not include the detention pond.

Next, Mr. Roach discussed the status of comments to the Utility Development Agreement from the owners of the Fieldhouse property as well as their bank and bank counsel, noting that RAPLLC has been working to address comments and expects the agreement to be finalized soon.

Director Humbert inquired about KB Home, to which Mr. Roach noted that KB Home is also working to ensure clean title before finalizing conveyance of the Legends Run drainage reserves to the District.

Director Sunderman entered the meeting at this time.

### **ENGINEER'S REPORT**

Mr. Mueller presented the Engineer's Report, a copy of which is attached hereto as "**Exhibit H**", 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, and that C-F is continuing to prepare the ACR renewal that would include hydraulic modeling; (b) Fox Run Drainage Analysis, noting they are continuing with the drainage analysis for the Fox Run Section 1 neighborhood, and Ms. Ward discussed the drainage analysis and detention outfall, noting that the District would need fourteen (14) acres to prevent flooding, after which discussion, the Board concurred to authorize C-F to discuss further with Montgomery County Drainage District No. 6; (c) WWTP Discharge Permit Renewal, noting the permit application had been submitted to the Texas Commission on Environmental Quality ("TCEQ") and has been declared administratively complete, and he further stated they are waiting on the TCEQ to send a completed technical review before conducting an additional round of publications; and (d) Forest Village Section One, noting the survey group will mobilize in the coming weeks to verify the flowline and elevation conditions of the concrete storm sewer ditch at the west edge of Forest Village Section One.

(2) District Projects (*Construction*): (a) Fox Run Water Line Rehabilitation Phase 1, noting the contractor has completed approximately 100% of the contract and that final site restoration is in progress, with an estimated completion to be at the end of this month, and he then presented Pay Estimate No. 8 in the amount of \$134,117.15 payable to SKE Construction, LLC ("SKE") for Board approval; and (b) Fox Run Water Line Rehabilitation Phase 2, noting that although the contracts are fully executed, Montgomery County ("County") had not yet approved the plans; however, he further noted that the Board had already approved awarding the project to SKE via the BuyBoard program for \$3,499,548.00; Director Gourley then inquired if Phase 2 Pipe Bursting can proceed without the County's approval, and Mr. Roach noted that worst-case scenario would be allocating responsibility for repairing any damages caused by the project, which the District would most likely be accountable for repairing regardless. After some discussion, Director Willcockson motioned to move forward on the Phase 2 Pipe Bursting project. Director Gourley seconded the motion, which passed unanimously.

(3) 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; 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 noted that C-F is proceeding with the design at this time.

After no further discussion, Director Sunderman motioned to approve Pay Estimate No. 8 for \$134,117.15, payable to SKE. Director Gourley seconded the motion, which passed unanimously. Then, Director Fusca motioned to approve the Engineer's Report. Director Sunderman seconded the motion, which passed unanimously.

Ms. Ward exited the meeting at this time.

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

There was nothing new to report.

Director Fusca then exited the meeting.

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

This item was discussed under the Engineer's Report.

### **GARBAGE COLLECTION REPORT**

Mr. Roach explained that RAPLLC has followed up with GFL Environmental Inc. ("GFL") for an updated letter outlining the Board's decision to have a flat rate of \$21.50 but had not received a formal letter yet.

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

Director Humbert inquired about an update on the San Jacinto River Authority ("SJRA") fee/cost sharing and allocation analysis. Mr. Russell noted he is working with the Bookkeepers for Montgomery County Municipal Utility District Nos. 88 and 89 ("MC88" and "MC89") to review the matter before presenting to all three Boards.

Mr. Braddock exited the meeting at this time.

### **DIRECTOR'S REPORT**

Director Sunderman noted that the I-45 North Improvement project had been approved and that the Federal Highway Administration ("FHWA") and Texas Department of Transportation ("TxDOT") are moving forward with it. He then noted that Region 6 of the Regional Flood Planning Group is moving forward with its own projects, none of which should affect the District, but reported that two (2) weirs are being investigated north of the District to provide detention for an area that has flooded five (5) times.

Next, Director Sunderman noted that he attended the recent Greens Bayou Corridor Coalition meeting, noting they provide advocacy for the development of Greens Bayou and have other government agencies providing financial support.

Director Humbert noted he had no updates at this time.

### **REVIEW CONSULTANT PROPOSALS AND TRANSITION MATTERS**

This item was discussed in the Bookkeeper's Report.

Mr. Roach exited the meeting, and Messrs. Montgomery and Braddock (re)entered the meeting.

### **WATER SMART EVENT (APRIL 18, 2023)**

Mr. Montgomery noted that the Water Smart Event would be held on April 18, 2023. Director Humbert requested that Touchstone post a notice on the District's website and provide a mass text message notifying residents of the event.

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

Director Humbert inquired if MC88 is still interested in buying capacity from the District. Mr. Montgomery noted that MC88 had already bought capacity for the water plant. Mr. Montgomery then indicated that he needs to discuss the allocation of SJRA fees issue with MC89, confirming that the MC88 Board had generally discussed the matter and agreed to proceed with a true-up as necessary. Director Sunderman asked what happens if MC89 does not reimburse the District, and Director Humbert noted that although there is no specific payment timeline, it is his opinion the matter is a non-negotiable reimbursement.

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

Mr. Montgomery noted there was nothing new to report.

### **OPERATOR'S REPORT CONTINUED**

Mr. Montgomery discussed meters owned by various homeowners associations which the District's prior operator should have read. He then inquired how the Board wants him to approach this issue in terms of billing. After some discussion, the Board concurred for Mr. Montgomery to review a possible total bill for the total gallons used on the meters as far back as their initial installation date.

Mr. Sullivan entered the meeting at this time.

### **PREVENTATIVE MAINTENANCE PROGRAM**

This item was deferred.

### **APPROVE FYE 2024 OPERATING BUDGET**

Mr. Montgomery noted various items he recommending adding to the budget, including upcoming operational projects. After a lengthy discussion, Director Sunderman motioned to approve the revised FYE April 30, 2024 Operating Budget. Director Willcockson seconded the motion, which passed unanimously.

#### **DEVELOPER'S REPORT CONTINUED**

Mr. Sullivan noted that he had nothing new to report.

#### **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**

Mr. Montgomery noted that MOC had identified approximately \$1,500 in unclaimed property funds and the Board discussed how to handle.

Director Fusca noted that there is now a cost for increasing the size of the District's records storage via Dropbox and recommended discussing this further at their next meeting.

Director Gourley noted an access issue regarding the 2121 Riley Fuzzel project as discussed at recent Board meetings. Mr. Mueller confirmed that no plans have been submitted to date.

The Board concurred to reconvene for a special meeting on April 28, 2023, and their next regular meeting on May 15, 2023 at 5:00 p.m. After no further discussion, Director Humbert motioned to adjourn the meeting. Director Fusca seconded the motion, which passed unanimously.

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Passed and approved this 15<sup>th</sup> day of May 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