

MINUTES OF MEETING OF THE
BOARD OF DIRECTORS

August 10, 2016

THE STATE OF TEXAS

§
§
§
§

COUNTY OF HARRIS

NORTHWEST HARRIS COUNTY MUNICIPAL UTILITY
DISTRICT NO. 28

The Board of Directors (the "Board") of Northwest Harris County Municipal Utility District No. 28 (the "District") met in special session, open to the public, at 3327 La Mer Lane, Spring, Texas, August 10, 2016, whereupon, the roll was called of the members of the Board of Directors, to-wit:

Anne Headley	-	President
Troy Zuckero	-	Vice President/Treasurer
Denean Bennett	-	Secretary
Patrick Donais	-	Assistant Secretary
Richard Doll	-	Director

All members of the Board of Directors were present thus constituting a quorum.

Also present at the meeting were Vicki Busboom, the District's Bookkeeper; Mark Adam with Bleyl & Associates, the engineers for the District; and Timothy G. Green and Samuel Johnson, attorneys, and Beth Van Doren, paralegal, of Coats|Rose P.C., legal counsel for the District.

WHEREUPON, the meeting was called to order at 6:01 p.m. The posted notice of the meeting is attached hereto as Exhibit "A".

**CONSIDER APPROVING RESOLUTION ADOPTING POLICY REGARDING
WRITTEN COMMUNICATION OF BOARD OF DIRECTORS**

Director Headley presented a Resolution Adopting Policy Regarding Written Communication of Board of Directors, a copy of which is attached hereto as Exhibit "B". The resolution states that members of the Board of Directors should refrain from discussing District business on social media outside of the District's official website. Questions from residents should be written, emailed or asked at the District Board meetings. The District Secretary will present all questions/comments to all Directors at the next regular board meeting for review and official answer by the Board. Finally, any written communication intended for distribution to the public using District letterhead or having the appearances of representing the position of the Board of Directors, requires Board approval and two Board members' signatures.

The Board recognized Mr. Johnson who noted the Open Meetings Handbook 2016, which is published by the Office of the Texas Attorney General, recommends refraining from discussing District business on social media (page 22). Doing so could create a "walking quorum" which is in violation of the Open Meetings Act. It was further noted that all five directors are on either/both Facebook and Nextdoor (a neighborhood social network). A copy of the Open Meetings Handbook 2016 is attached hereto as Exhibit a "C".

The request that public questions be presented in writing or posed at a regular board meeting is intended to stop hearsay and misinformation.

Restrictions on written communication using the District's letterhead is to ensure that the entire Board approves of what is being presented to the public. Personal opinions should not be presented as Board opinions.

Next, Director Doll presented a written statement opposing the resolution, a copy of which is attached hereto as Exhibit "D".

After further discussion, and based on a motion made by Director Donais which was seconded by Director Zuckero, the Board voted 4 to 1 to pass the resolution.

CONSIDER APPROVING WEBSITE CONTRACT

Director Bennett presented three website bids for consideration. DooWooWoo, a copy of which is attached hereto as Exhibit "E", Johnnyo Design, a copy of which is attached hereto as Exhibit "F", and Off Cinco, a copy of which is attached hereto as Exhibit "G". Director Bennett expressed the importance of getting the website up and running in order to communicate factual information to the residents of the District. After further discussion and based on a motion by Director Donais, seconded by Director Zuckero the Board voted 4 for and 0 against, with Director Doll abstaining, to authorize Director Bennett to enter into a contract with Off Cinco of up to \$2000.00 to get the website up and functional.

ADDRESS RUMORS, INNUENDOS AND SLANDEROUS COMMENTS CIRCULATING WITHIN THE COMMUNITY REGARDING WALL PROJECT AND SOCIAL MEDIA AND OTHER ACTIONS OF THE BOARD

Director Headley stated that Director Doll had posted the following on the social media site "Nextdoor":

"This is my first time using social media. The reason I decided to use it now is because as a MUD Director, I'm concerned that the wall we all expected when we voted in the Bond Election is no longer the intention of the MUD to build. The president of the board has redesigned the pre-cast cement wall to a four inch wide cement fence, increased the height from 6' to 8', and intends to finish it as lime stone instead of stone look to match the existing entrances among other changes.

The structure is still meant to be financed with the same \$1.1 M bond which we will all pay with tax money over 25 years. Anne Headley unveiled some details at the HOA meeting but after a negative response, she stone-walled residents a week later at the MUD meeting – not even providing one answer to 10 different residents asking questions one after another.

If you are concerned about this, my e-mail is rich_doll@sbcglobal.net and I will provide details of these events as well as a Recap of the Town Hall meeting when the wall was first presented." A copy of which is attached hereto as Exhibit "H".

As a result of these comments and the homeowners responses to the same, Director Headley and Director Bennett have researched the issues and addressed them below, a copy of which is attached hereto as Exhibit "I":

1. At the 2015 Town Hall Meeting, the then-President of the MUD, Rich Doll, stated that the proposed perimeter wall would be about one-foot thick, would be stacked stone, and would be "like that of The Sanctuary [nearby subdivision, just before the intersection of Spring Cypress and Kuykendahl Road]."
 - a. All details were tentative, except the amount of the proposed bond.
 - b. No promises were made.
 - c. The claim that the wall would be "like The Sanctuary" was misleading and should never have been communicated or received as though it were a certainty. In mentioning The Sanctuary's perimeter wall, it should have been clearly stated that it was an example, along with several others in our area, of what the wall might look like, depending on several factors.
 - d. The wall at The Sanctuary is not one foot thick. The structure is between 6 and 8 inches thick.
 - e. The wall at The Sanctuary is not stacked stone. It is a stamped concrete product, like all of the options the MUD Board has been reviewing for installation at Normandy Forest.
2. Some residents have stated that they were not pleased with the possibility that the proposed perimeter wall would be painted.
 - a. Because the proposed wall will most likely be a cast concrete product, it is not only customary, but it will be necessary to paint it so that the wall is not a monotone, gray structure surrounding our community.
 - b. The paint that is applied to the structure is not ordinary house paint, rather it is an industrial product created to meet the demands of external structures of this type.
 - c. The perimeter wall at The Sanctuary is a cast concrete structure that has been painted to look like stone.
 - d. Most all area perimeter walls that are not hand-stacked bricks or hand-stacked stones are cast products that have been painted.

3. Some residents have complained that the specifications of the wall that they were promised/that they voted for have been changed. It has been stated that making this type of change without a vote from the residents is against the law.
 - a. No specifications on the perimeter wall have been changed because the MUD committed to no specifications. The details that were shared in the Town Hall Meeting and those included in the Bond Package that were submitted to secure the election were all tentative. This is the common practice; when the Bond Package was compiled and submitted, your MUD Board followed the letter of the law.
 - b. The vote that was taken in November 2015 was to allow the NWHC MUD#28 to sell bonds, in the total amount of \$1.1M, for the purpose of erecting a perimeter wall around the Normandy Forest Subdivision. The vote was not to determine design details.
 - c. As with all MUD Board projects, the public is welcome to share their opinions at the MUD meetings and/or in writing. Also, as with all MUD Board projects and funds, HOA Board projects and funds, even the United States Congress and other governing bodies, final decisions are made by the Board, as a whole or by committee, and not by the entire constituency.
 - d. The specifications of the perimeter wall will be investigated, evaluated and determined by the Perimeter Wall Committee of the MUD and the MUD Board as a whole. The progress of those decisions will be communicated to the remainder of the community as they are made. At the time of this writing (August 5, 2016), absolutely no decisions have been made and, therefore, none could have been changed.
 - e. Permission to acquire bond funds requires a vote. Committing to and/or changing specifications on the design of the perimeter wall does not require a vote.
4. At least one resident has claimed that the perimeter wall design has changed from what was shown to them during the signing of the easements and what was displayed at the July HOA Meeting. This resident and possibly others were upset that the design had changed.
 - a. There were upwards of seven (7) examples available for review at the signing of the easements. It was made clear by several Board members at those interactions that those images were provided as examples of different types of walls only and that they were not specific to the type of perimeter wall that would be built around Normandy Forest. Since all of the examples were different, it would be impossible for all of them to illustrate what the Normandy Forest perimeter wall will be.
 - b. The images on the presentation board used by our current President at the July HOA Meeting were conceptual and did not indicate a chosen or contracted product for our perimeter wall. They were meant to give those

unfamiliar with perimeter wall products examples of what could be used for the wall, as well as suggestions for what may be aesthetically pleasing and affordable, given our existing structures, neighborhood size and available bond funds. The MUD Board, including the Perimeter Wall Committee, has not committed to one thing, including color scheme, stone pattern, wall texture, material type, contractor, height, width, etc.

5. Completing a project of this magnitude, involving bonds and taxpayer funds, is a long, painstaking, involved, and regulated process. Details of the process can be learned by searching the appropriate government documents and websites, including that of the Texas Commission on Environmental Quality (TCEQ), <http://www.tceq.state.tx.us/>. Additionally, an outline of the process we are following will be posted on our website, once it is up and running (target date: September 1, 2016).
6. A resident has said that the residents who attended the July 2016 MUD Meeting were “stone-walled.”
 - a. According to the officially adopted resolution concerning comments from The Public, members of The Public are allowed to speak during the “Hear from The Public” agenda item for three (3) minutes each, for a total of thirty (30) minutes. This resolution was written and supported by the previous President, and approved by the entire MUD Board.
 - b. The residents who desired to do so, did speak openly at the MUD Meeting.
 - c. Immediate responses to statements made during the “Hear from The Public” agenda item are not required. Topics covered during The Public’s comments that are also a part of the current agenda may be addressed throughout the course of the meeting.
 - d. The MUD Meeting, and resident comments, were professional and productive.
 - e. Resident concerns and questions were heard in their entirety by all who attended.
 - f. Each question, and many concerns, that were presented by the residents were addressed during the course of the meeting.
 - g. Residents who wished to have additional interaction with Board members remained until the conclusion of the meeting and were observed having informative, neighborly discussions, during which any and all topics in which they were interested were explored.
7. For the purposes of all discussions and documentation of the MUD Board:

- a. A "fence" is typically constructed of wood or chain link metal. For example, when the deplorable condition of some perimeter fences is referred to, a structure of wooden boards or planks is being discussed.
 - b. A "wall," to be used in an exterior space to surround an area, is typically constructed of stone, brick or concrete. As we review products for use in the structure that surrounds the Normandy Forest Subdivision and that will comprise our perimeter wall, they will be made of either stone, brick, concrete or product composed of those material types.
8. Several residents have requested the perimeter wall be 8-feet tall. Other residents have requested the wall be 6-feet tall. Still other residents support the idea that the wall should be 6-feet in some sections and 8-feet in other sections.
- a. No height has been decided on/committed to by the MUD Board as a whole or by the Perimeter Wall Committee.
 - b. There has been concern that an 8-foot wall could make one feel too closed-in or imprisoned in one's back yard or in the neighborhood parks. This is a subjective evaluation which will vary from person to person.
 - c. There has been concern that a 6-foot wall will not provide adequate light and sound protection for those along Spring Cypress and/or for those behind the businesses on FM2920. This is a subjective evaluation which will vary from person to person.
 - d. There has been concern that two different heights along the same perimeter wall structure will be unsightly. This is a subjective evaluation which will vary from person to person. It is worth noting, however, that there are transition configurations that can be employed to "marry" varying heights. Some of those transitions may be necessary, even if the wall is the "same height" all the way around, because of changes in the terrain on which the wall will be erected, mitigation of environmental factors, etc.
 - e. The concerns about light and sound nuisances, as well as choosing an aesthetically pleasing configuration, will be weighed with other factors such as budget constraints, soil integrity and topography, sightlines and safety for driving, etc.; a structure that will best meets all of the needs and conditions will be chosen.
9. Each and every member of the NWHC MUD#28 Board is a resident of Normandy Forest. Of the five (5) of us, only one (1) resides in a perimeter home. Of the five (5) HOA Board members, one (1) resides in a perimeter home. The perimeter wall project was not only suggested, but was requested, by the HOA as an improvement to the subdivision from which each homeowner might benefit in neighborhood appearance and property value. Each member of both of these boards is, therefore, interested in providing as high a quality product for installation around our neighborhood as the budget and available options will

allow. We all seek a solution that elevates all of us together as residents of the same community.

10. The MUD has adopted a resolution concerning all future communication by NWHC MUD#28 Directors. According to this resolution, any information distributed or communicated by a single Director outside of a MUD meeting, without approval of the MUD Board, and/or that is not a direct response to a Contact Us inquiry to/from the NWHC MUD #28 website is purely the opinion of that Director. All facts can and should be validated (1) during attendance at MUD meetings, (2) via review of approved documents posted to the official NWHC MUD#28 website, or (3) via review of documents secured using an Open Records Request submitted to the District's legal counsel.
11. At least one resident claimed an amount of \$40,000-60,000 has already been spent on "design ideas and engineering" for the perimeter wall.
 - a. According to the Bookkeeper's Report accepted by the MUD Board during the July 2016 MUD Meeting, a total of \$10,852 has been spent on engineering services since January 1, 2016.
 - b. The year-to-date total of \$10,852 encompasses engineering services required for the run of the District, as well as those preliminary services executed on the perimeter wall project. This total also includes design funds.
 - c. With approximately \$22,000 listed for our engineering budget for 2016, and having spent just over \$10,000 at the end of June 2016, we are on target for this year's expenditures on engineering services. In other words, at about 50% of the way through the year, we had spent about 50% of the funds allotted for the engineering budget line item.
 - d. In the first vendor meeting for the perimeter wall, the Board learned that vendors would be unable to price a solution until there was a design for the wall. We were advised to engage a designer to draft a preliminary design from which we could execute meaningful information gathering as we progress to the final design. The final design must be biddable and meet all of the requirements for approval by all appropriate state agencies.

12. The supposition that "the MUD Board making unilateral decisions when spending funds is wrong" may be used to create dissention among the Normandy Forest community.

- a. Some residents may be familiar with a former project of the MUD which would have erected a splash pad, pavilion and other facilities in the neighborhood park. During that time, Rich Doll was President of the MUD. He made it quite clear that the HOA had no control over the money or the

- project, and that the HOA Board would have to choose from the packaged options the MUD presented, or the project offer would be rescinded.
- b. The HOA did not choose a packaged option by the deadline issued by the MUD. The project offer was rescinded.
 - c. While Rich Doll was President, he was resolute and unmovable that the MUD would make all decisions concerning the funds that would be spent on the proposed improvements. Now that Rich Doll is no longer President, he seems to be championing the negative reaction to the fact that the MUD will make the final decision on how the monies are spent to complete the perimeter wall project.
13. All MUD Board projects are executed by one (1) or two (2) -person committees that execute the legwork, compile the information and present the analysis to the entire Board so that the best decision can be made for the District and the taxpayer funds the Board is responsible for spending. Each committee can consist of any combination of Directors, regardless of their title or the position they hold on the Board.
14. All MUD Board decisions and expenditures are voted on by the entire MUD Board at public meetings, at which there is a quorum of Board members. Because the entire Board consists of five (5) members, three (3) members constitute a quorum. Consequently, all final decisions and authorized purchases must be approved by at least three (3) Board members, regardless of title or position.
15. At least one resident accused the Board of hiding actions and purchases.

- a. As stated in the July MUD Meeting by the President, during her seven (7) years on the Board, she had not seen seven (7) different members of The Public attend the more-than-70 meetings she has attended during this time period. A Public that attends the meetings is a much more informed Public.
- b. All information, options, expenditures and District business is disclosed, discussed, approved or disapproved clearly during the Board's meetings, which are open to the public. There are a host of regulations, professionals and procedures that govern the Board's actions, providing a solid structure of checks and balances. Additionally, all minutes and documentation from the meetings are available as a matter of public record and accessible via request through an Open Records Request submitted to the District's legal counsel.

16. A resident posted a statement on social media claiming that “our good garbage pickup by Republic Waste is being replaced by another company with recycling added.”

- a. In an effort to spend the District’s funds as wisely as possible, any and all contracts may be reviewed at any time. Service offerings and prices vary as the landscape of any market changes; these changes may allow an opportunity for us to increase the value our neighborhood receives for the same or less expense on any product or service provided by the District.
- b. Over the years, a great many residents have inquired about and/or requested curbside recycling in Normandy Forest. For many years, it has been cost prohibitive to offer the service to the District. In the course of reviewing the contract for garbage collection services, quotes for recycling services were solicited along with those for garbage collection.
- c. At the time of this writing (August 5, 2016), no decision has been made on whether the garbage collection contractor will remain Republic Services or be changed to another contractor.

17. A resident posted a statement on social media claiming that “our Mud meeting house is going to be sold and future MUD meetings will be held at a Hotel somewhere.”

- a. In an effort to spend the District’s funds as wisely as possible, any and all regular expenses may be reviewed at any time; this includes a review of the funds required to maintain our meeting facility. A discussion of this type was not held in the July MUD Meeting, nor at any meeting attended by The Public/residents of Normandy Forest; therefore, this statement can be nothing but erroneous.
- b. An errant comment by one Board member at the July MUD Meeting may have been taken as fact when it was merely offered as a suggestion.
- c. NWHC MUD#28’s meeting locations have always been chosen and posted according to the rules as documented in the Texas Open Meetings Act. With regard to the location:

“The Act requires a meeting of a governmental body to be held in a location accessible to the public. It thus precludes a governmental body from meeting in an inaccessible location. Recognizing that the question whether a specific location is accessible is a fact question, this office recently opined that a court would unlikely conclude as a matter of law that the Act prohibits a governmental body from holding a meeting held in a location that requires the presentation of photo identification for admittance. This office has also opined that the Board of Regents of a state university system could not meet in Mexico, regardless of whether the board broadcast the meeting by videoconferencing technology to areas in

Texas where component institutions were located. Nor could an entity subject to the Act meet in an underwriter's office in another state. In addition, pursuant to the Americans with Disabilities Act, a meeting room in which a public meeting is held must be physically accessible to individuals with disabilities."

- d. The option of meeting at a hotel was not discussed at the July MUD Meeting. Information from previous meetings that is not gleaned from official, approved meeting minutes and documents is hearsay.
 - e. No decision has been made regarding the sale of the MUD Office.
18. Several residents have asked, via social media and not during the course of MUD meetings or in writing, where the money will come from to complete the perimeter wall.
- a. The funds to complete the perimeter wall will be assembled according to the rules governing the securing and use of taxpayer funds for allowable parks and recreation projects.
 - b. It is the Board's goal to complete the perimeter wall project with the \$1.1M bond funds approved by residents in the November 2015 election.
 - c. There is a small amount of MUD #28 funds that can be used toward the perimeter wall project if they are needed. It is the Board's goal to avoid this possibility.
19. One resident expressed concern that the security cameras should be reviewed regularly. This is not the purpose of the security cameras that have been installed at the subdivision entrances and neighborhood park and neighborhood clubhouse.
- a. The cameras have been installed as a deterrent to would-be criminals.
 - b. Our constables have the opportunity to use the footage collected by the cameras as one or many tools to further open investigations only.
 - c. No MUD Director or HOA Board member has access to the camera footage. It can only be accessed by the constables, for investigative purposes, and by the security company, for maintenance purposes.
 - d. Our neighborhood continues to remain the safest in the area, by far. As stated in the Town Hall Meeting Recap by our previous MUD President Rich Doll, "The community would still be safe without security cameras, but the cameras also show outsiders that we are serious about protecting our loved ones."

Next, Director Headley presented the District's Director's insurance, a copy of which is attached hereto as Exhibit "J". She noted that "the insurer shall not be liable to pay Loss resulting from any Claim : (3) brought about or contributed to in fact by any dishonest, fraudulent or criminal Wrongful Act or by any Wrongful Act committed with actual knowledge of its wrongful nature or with intent to cause damage."

Finally, Director Doll stated he had acquired a massive amount of information regarding walls through his discussions with developers and consultants. He requested he be put on the next agenda so that he could present this information to the rest of the board members.

There being no further business to come before the Board, and based on a motion duly made and seconded, the meeting was adjourned.

PASSED, APPROVED and ADOPTED this 27th day of September, 2016.

(DISTRICT SEAL)

Secretary, Board of Directors