

RESOLUTION NO. 07-015

Date 12/18/2007

A RESOLUTION BY THE CITY OF MEADOWLAKES, TEXAS TO DEFINE THE FINANCIAL RESPONSIBILITIES ASSOCIATED WITH ACQUIRING AND OPERATING PROPERTY REQUIRED FOR PROPER MANAGEMENT AND APPLICATION OF BENEFICIAL REUSE WATER REQUIRED TO PROPERLY OPERATE THE CITY'S WASTEWATER DISPOSAL SYSTEM.

WHEREAS, the City Council has adopted the critically needed plan for additional infrastructure acquisition that ensures the City's continued capability to treat and properly dispose of treated effluent which qualifies as beneficial reuse water (the "Reuse Water"), without dependence on the acceptance and distribution of the Reuse Water on privately owned land and irrigation systems not within the City's direct control,

WHEREAS, recent failure to accept the Reuse Water and litigation(s) against the City to eliminate the only property within the City upon which the Reuse Water may be applied has demonstrated that a public health and safety concern does exist whereby the proper application of the City's Reuse Water could be further interrupted creating immediate threat to the health and safety of all citizens of Meadowlakes without any reasonable alternative option,

WHEREAS, a highly probable result of the City having no reasonable location to apply Reuse Water is a non-compliance enforcement action brought by Texas Commission on Environmental Quality ("TCEQ"),

WHEREAS, TCEQ will mandate the City provide appropriate land to apply the Reuse Water to and, in addition to possible fines of thousands of dollars per day, can order the City's operation of the wastewater system cease until appropriate land is available to accept the application of the wastewater after treatment to Reuse Water quality,

WHEREAS, the City Council has determined the most expeditious and reasonable alternative to mitigate the public health and safety jeopardy created by interruption of applying Reuse Water to land is to purchase the only available land within the City, as such land already has a valid TCEQ permit for land-application of Reuse Water as well as having an adequate existing distribution system for the immediate distribution of Reuse Water (i.e. an irrigation system),

WHEREAS, the private ownership of the land upon which the City applies the Reuse Water to has already seriously jeopardized the public health and safety through a private owner's refusal to take Reuse Water and other activities to intentionally thwart the City's ability comply with TCEQ and protect the public health and safety,

WHEREAS, the purchase of the described land with the existing irrigation system will immediately mitigate the risk of potential wastewater service interruption to all citizens of the City of Meadowlakes,

WHEREAS, the City's primary function is to provide utilities to citizens including disposal of the treated wastewater properly, and,

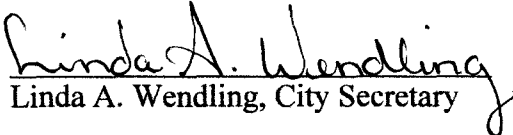
WHEREAS, the benefit of a single landowner holding property, which is the only adequate property in the City limits for application of Reuse Water constitutes a public necessity to acquire the property for the public,

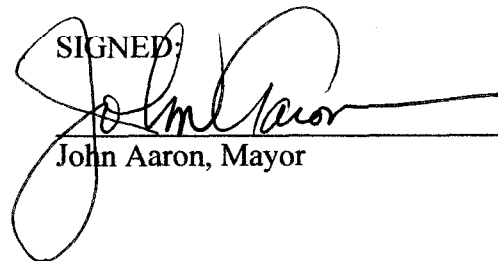
WHEREAS, The City Council finds that acquisition of the property is in the best interest of the public health, safety and welfare,

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby declares the following rules for financing, maintaining and operating of the PROPERTY.

PASSED AND APPROVED this the 10th day of January 2008.

ATTEST:


Linda A. Wendling, City Secretary

SIGNED:

John Aaron, Mayor

RULES FOR FINANCING, MAINTENANCE AND OPERATIONS
OF PROPERTY BEING ACQUIRED FOR
REUSE WATER APPLICATION AND COUNTRY CLUB OPERATIONS

This resolution shall govern the management policy associated with the City's ownership, financing, debt servicing, operations and maintenance of the PROPERTY acquired via Earnest Money Sales Contract adopted by City Council December 18, 2007 (contract between MEM Hill Country Land and City of Meadowlakes in which the PROPERTY is defined). These policies are for the purpose of establishing respective responsibilities between that which shall be funded by the general population of RESIDENTS and the USERS of the Country Club services. Subsequent issued Covenants that will accompany the Bond Authorization may contain additional policies to be followed, and to that degree shall take precedent in that event of conflict with language contained herein.

The policies are derived from the general principal that Meadowlakes RESIDENTS shall share a proportionate responsibility to fund the purchase of the PROPERTY and provide for the long-term maintenance of the irrigations system thereon. Proportionate sharing by HOUSEHOLDS is based on the rationale that all residents use and depend on having an end-to-end Wastewater System that provides dependable and uninterrupted wastewater service. Likewise the policy establishes the principal that the public USERS of the Country Club shall be responsible for funding the operations and maintenance of the PROPERTY should the City operate the Country Club golf services (other than the irrigation system) including related services and facilities. The specific policies are as follows:

1. Funding and financing the purchase of the PROPERTY shall be from a newly established revenue stream resulting from service fees levied on each Wastewater Customer. The existing monthly service fees will be increased by that amount required to pay cost of acquisition, debt service on any obligation incurred to finance such acquisition and maintenance of the irrigation system and related irrigation infrastructure required to deliver and apply the City effluent treated to a quality to be beneficial reuse water ("Reuse Water"). Other than for costs of the PROPERTY acquisition and that required to maintain the capability to spray the City's Reuse Water, monies derived from this revenue stream shall not be utilized for any other purpose associated with the PROPERTY. Maintenance of the irrigation infrastructure shall include necessary coverage for parts, materials, related maintenance equipment and labor required for routine maintenance, component repair and replacement (R&R), and upgrades.
2. Funding for operations and maintenance of the "Country Club" usage of the PROPERTY including (but not limited to) that required to provide and support golf course services, pro shop retail sales/service, food/beverage services, pool and tennis services, and all other special services, (including the maintenance and provisioning of all related facilities) shall be provided with funds received from fees charged for using the Country Club. A Country Club Fund shall be established for this purpose. In addition to the above, the Country Club Fund is required to fund all electric utilities and labor cost associated with operating the irrigation infrastructure that is located on the PROPERTY. The City's effluent water and collected storm water will be provided free of charge to County Club Fund as a quid-pro-quo exchange for irrigation electric utilities and

irrigation operators provided by the Country Club Fund, however the Country Club Fund shall pay for any additional water required (at the City's commercial rate for raw water), via transfers to the PWD Utility Fund. The Country Club Fund shall similarly pay for potable water, wastewater services and solid waste services used by the Country Club via transfers to the appropriate City utility accounts. The Country Club Fund shall provide for adequate liability and loss insurance for workers, facilities and loose equipment.

3. The Country Club Fund shall support the department of the City established to operate within the constraint of not creating or experiencing financial deficits on an annual basis. A specific budget shall be constructed that includes mature estimates for operating expenses and revenues, as well as capital requirements for maintenance and upgrades. Usage fees and planning of capital investments shall be adjusted as required to maintain a balanced budget applicable on an annual basis. City Council authorization of the annual budget shall be required. The Country Club Fund shall accumulate and maintain at all times an unencumbered operating cash reserve of \$50,000 to be utilized only for unplanned/unanticipated operating loss makeup. The Fund's objective shall be to accumulate the required reserve within 18 months of initial operation. Council shall have the authority to transfer monies to The Fund to cover critical needs, particularly needs associated with protecting, health, safety, codes and assets. The monies so transferred shall be budgeted for reimbursement to the City at a later date. It is anticipated that such transfers will be required in the first 2 years of operations. The City will also be required to provide an advance from the City to cover money needs for initial startup operation of the Country Club. The term of loan will be decided as part of council authorization for said loan.

4. The Country Club management team shall be a department of the City and shall construct and maintain a forward looking three year technical and budget plan that includes mature projections of equipment Repair and/or Replacement (R&R), facilities R&R as well as coverage for small to moderate upgrades to the Country Club. The funding of such, to the degree practical, shall come from R&R reserves accumulated through ongoing Country Club operations. That is, the principal is to fund R&R items on a "pay as you go" basis. In the event that a major upgrade or new facility is desired and for which the costs are well beyond the capability of the Country Club Fund, such item shall require a dedicated project be defined, engineered, cost modeled, justified and adopted through an appropriate financing decision process consistent with the level of investment being requested.

5. After mature and steady state operations of the Country Club has been established, adequate operating reserves are in place, and the backlog of Country Club equipment and facilities R&R has been depreciated, any surplus monies shall be transferred to the Utility Fund to reduce the financial debt and/or bond fees associated with purchasing of the PROPERTY. Upon retirement of the bonds, the associated Sewer Fee shall be reduced to a level that is commensurate with providing maintenance (including upgrades as required) of the irrigation system and treated wastewater storage and application infrastructure located on the PROPERTY.

6. In the event that future economic conditions develop and/or Country Club operating profits deteriorate to the point of the Country Club Fund generating financial deficits on a sustained basis, the City Council shall take actions to limit the drain and demands on the City budget. The actions can range from moderate adjustments to Country Club services, up to and including operations cessations and/or land use conversion. In any event, the actions shall not compromise or impact the capability to dispose of the City's effluent on the PROPERTY so as long as the City requires use of the PROPERTY for such purpose.