

LAKE POINTE MUNICIPAL UTILITY DISTRICT

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS

December 9, 2021

The Board of Directors of Lake Pointe Municipal Utility District (the “District”) met in person in a regular session on December 9, 2021 at 7:00 p.m., open to the public. The District posted a copy of the notice of meeting, attached as “Exhibit A.”

President Knuff called the meeting to order at 7:02 p.m.

Item No. 1

Item No. 1 was to call to order and establish quorum. All members of the Board were present:

Director Steven Knuff
Director Robert Salgo
Director Penny Handsel
Director Jody Flaws
Director Jason Rew-Hunter

Also in attendance were William Swanks with TUMCO, Josiah Longbons and Blake Foree of Landscape Resources, Cathy Mitchell with Jones|Carter, Jim Norris, and Grayson McDaniel with The Carlton Law Firm.

Item No. 2

Item No. 2 was to receive public comment on items not on the Agenda. No public comments were made. The Board took **NO ACTION** on this item.

Item No. 7

Item No. 7 was to discuss, consider, and take action as necessary regarding landscape services within the Lake Pointe subdivision. Mr. Longbons reported that Landscape Resources had completed the mainline irrigation loop project and installed all nine isolation valves, so the District’s irrigation system was improved as needed for the Resaca Boulevard fence replacement. Mr. Longbons presented a proposal and invoice for the mainline irrigation loop project, including the boring work, installation, equipment, repair, and resodding, for a total amount of \$40,507.00. The project came in over \$6,000 under budget, as there had been less remediation as was anticipated and no unforeseen problems occurred. Director Salgo expressed satisfaction with the work and the proposed invoice.

Mr. Longbons next reported on remediation of the landscape where the silt fence had been removed. The West Travis County Public Utility Agency (“PUA”) has taken responsibility for the work, including removing mulch sacks that were preventing proper drainage and remediating erosion damage. The PUA’s engineer, Jason Bays, and two PUA representatives inspected the area on behalf

of the PUA. Mr. Longbons said that Landscape Resources would inspect the area after the PUA completed the work.

Mr. Longbons said the PUA's engineer, Jason Bays, was planning to monitor the drainage to ensure it drains to the proper area. Director Salgo explained that the District created a swale to redirect the flow away from school property and that the swale seems to still be properly directing the drainage. Director Salgo said he would follow up with Mr. Bays. Mr. Longbons advised using a higher clay content soil because it erodes less, but he does not know if the PUA will do so. Director Salgo expressed concern that the PUA's remediation work, especially grading work, might damage some of Landscape Resources's irrigation. The PUA, Mr. Longbons reported, said the work would be done by hand to prevent any damage.

Next, Mr. Foree presented a proposal for repairing and improving the uplighting beds along the wall on Bee Caves for \$7,143.76. Landscape Resources proposed the removal of the damaged steel edging and overgrown plants in the existing beds, installation of 478 linear feet of new edging, installation of a weed barrier and river rock in 41 beds, and removal of all debris and old materials. Mr. Longbons advised against planting in the beds, as even lantana can grow above the lights.

Next, Mr. Foree presented a proposal for pruning trees along Bee Caves for \$2,200.00. Landscape Resources proposes to prune the large oak at Bee Caves and Resaca, prune all trees overhanging the wall along Bee Caves, seal all oak wounds, and remove all debris. Responding to Director Rew-Hunter, Mr. Foree clarified that Landscape Resources would only prune along the wall, not within the residents' property lines. Director Salgo suggested that the Pointe HOA might take on this work.

Next, Mr. Foree presented a proposal for fence line brush removal at the Napa detention pond for \$7,200.00. Landscape Resources would remove overgrown brush around the pond, prune the trees, remove smaller invasive trees, and remove all debris. Operations Manager Swanks explained that the trees and brush had never been pruned or otherwise remediated in 30 years.

Next, Mr. Foree presented a proposal for pruning and tree removal at the Napa drainageway for \$3,600.00. He explained that a large willow or salt cedar tree was creating erosion issues at the resident's yard at Tilare and Napa. Operations Manager Swanks explained that the root ball is blocking drainage. Landscape Resources would remove the overgrown tree, grind the stump, prune the surrounding trees, and remove all debris.

President Knuff queried whether there was a motion. Director Salgo made a motion to approve the four new proposals and to find the budget item in which to include the work. President Knuff seconded the motion. Director Salgo said he would ask the PUA to contribute to the proposal for remediating erosion. Director Salgo made an amended motion. Director Salgo moved to approve the proposals for \$2,200.00, \$3,600, and the \$7,200, but to table consideration of the proposal for repairing and improving uplighting beds along the wall along Bee Caves for \$7,143.76. President Knuff seconded the amended motion. Director Rew-Hunter asked where the money for the three proposals would come from. Operations Manager Swanks said he had it coming out of "Tree Care" and "Drainage Pond." President Knuff asked for any other questions. Hearing none, he called for a voice vote, and the motion **PASSED** unanimously.

Next, Director Salgo asked about the removal of the trees at Palos Verde, and Mr. Foree said that work had been completed. Landscape Resources took out the dead tree that grew over the wall and the dead tree next to it.

Finally, President Knuff expressed that he had enjoyed working with Landscape Resources while on the Board. The Board took **NO FURTHER ACTION** on this item.

Item No. 9

Item No. 9 was to discuss, consider, and take action as necessary regarding the Preserve. Jim Norris discussed making a presentation to District residents about the dock in December or January. Mr. Norris said that his primary question was who would own the dock if one is built. President Knuff suggested that Mr. Norris present two proposals to residents—one in which the District owned the dock and leased it to those who wish to lease boat slips, and one in which individuals owned slips outright. President Knuff suggested consulting with legal regarding ownership issues, because the District would not be paying for construction of the dock and would therefore not own anything to sell or lease.

A discussion ensued regarding whether the District or the community was in charge of this project. The District pays the legal fees for research undertaken by The Carlton Firm. Director Salgo stated that he is cautious as a board member and resident of spending legal fees when the project remains ambiguous. Director Rew-Hunter asked if the District would build the dock. Mr. Norris explained that the District is responsible for repairing and replacing the dock now and has proposed to pay for a swim dock, but that if the new construction includes boats slips, then the residents who own the boat slips would contribute to the costs. Director Salgo and Director Rew-Hunter noted the need for a public hearing regarding the financing. The boat-slip owners, if involved, may best be served to create a business entity, like an HOA, with a bank account to oversee the construction. Director Rew-Hunter asked if the slips could cover the whole cost. Mr. Norris said the income from the lease of 12-16 slips would likely cover the cost of the project.

Director Rew-Hunter asked if the resident moved what would happen. Mr. Norris said in Tarrytown the contract allowed a six-week period after a resident's home sale for the resident to keep the slip, and otherwise the slip would be returned to the market.

Director Salgo asked what the Board's role was on the project. Mr. Norris explained that since the dock is on District property, the Board should decide issues like ownership. Also, he stated, the District funded the design, which was completed last year. Director Salgo said he thought only a schematic design exists. Construction documents cost about \$100,000 more to create. Mr. Norris said he's gotten bid estimates before on the design. Director Flaws asked for the most recent bid. Director Rew-Hunter proposed studying if and to what extent the Americans with Disabilities Act ("ADA") applied, as making the dock ADA-compliant will add significant cost to design and construction.

Director Handsel asked how the boat slips would affect swimming safety. Mr. Norris explained that the boat slips would be located 200 feet away from the swim platform, and that the platform would have a curved design to prevent boaters from using it to dock. Director Handsel said she still had some concern about increased boat activity around swimmers.

Director Rew-Hunter requested that Mr. Norris provide the Board with a PowerPoint presentation or similar explanation of how the dock would be built, including estimated costs and any bids received to date; what entity or entities are proposed to be responsible for funding; the history of the project; and information from Stephen Hawkins at Aqua-Tek about the work and costs for obtaining necessary permits. The Directors concluded discussion on the boat dock.

Next, Operations Manager Swanks reported to the Board about a response he received from a resident who received a demand letter regarding illegal cutting in the Preserve. The Google Earth image showing the illegally cut trees indicated that cedars had been cut behind the resident's property, but Operations Manager Swanks went to inspect after the resident stated that he did not cut down trees, and the cut trees were behind the house next door. The Carlton Firm will send a demand to the correct address. Neither Tumco nor Ms. McDaniel had heard from any other residents who received demand letters.

Next, Operations Manager Swanks reported that all the remediation on the existing dock had been completed, including the work on the tie-outs, for a cost of \$250.

Finally, President Knuff asked Operations Manager Swanks to order ten signs for the Preserve.

The Board took **NO ACTION** on this item.

Item No. 11

Item No. 11 was to discuss, consider, and take action as necessary regarding the Boundary Fence project within the Lake Pointe Subdivisions. First, Ms. Mitchell with Jones|Carter reported that Travis County wanted a license agreement for the new fence, since the District will be constructing a portion of the fence within the County's right-of-way. She explained that the County had accepted the revisions to the draft license agreement made by Mr. Wilburn and Ms. McDaniel. She distributed Exhibit A to the license agreement, which showed the locations where the fence will be encroach into the County right of way.

Director Salgo explained that the County will not require the District to place funds in escrow as was communicated initially by Jones Carter. The County requires the District to maintain insurance in the event the improvements in the County right-of-way must be removed, but the amounts was already within the District's existing insurance coverage. The District will only need to modify its insurance to add the County as an additional insured, which Robin Meacham, representative of TMLIRP, confirmed could be done. Ms. Mitchell explained that Jones|Carter was authorized at the November meeting to seek the license agreement with the County, so no motion is required at this meeting, only for the Board to execute the license agreement.

Ms. Mitchell next explained that earlier in the week, Johnson Services, the contractor on the Resaca Boulevard Fence Replacement contract, telephoned Jones|Carter and informed her and Kent O'Brien that the Vice President of Johnson Services submitted bids on multiple projects that the company could not complete as bid on and that the Vice President had been fired. Johnson Services communicated it would not be able to go forward with the project as bid. The District has a signed contract and performance and payment bonds in place already, which guarantees contract performance. The District had not issued Johnson Services the Notice to Proceed, as the District was waiting for the County license agreement to be approved.

Director Handsel asked if the Board could select another bidder. Ms. Mitchell said they could. Ms. McDaniel explained that the District can make a claim on the performance bond and that legal can pursue notification of contractor default to the surety before the next meeting if authorized.

Ms. Mitchell gave President Knuff the license application agreement to sign. It will be filed with the County and approved by the Commissioner's court within two weeks. The Board took **NO ACTION** on this item.

Item No. 3

Item No. 3 was to receive an update from the Lake Pointe Homeowners' Association. No representative of the Pointe HOA attended the meeting. The Board took **NO ACTION** on this item.

Item No. 5

Item No. 5 was to discuss, consider, and take action as necessary regarding the District's financial reports and payment of bills and invoices. The \$40,000 payment to Landscape Resources will be authorized next month, as the invoice had not been received by the time of the meeting. Director Rew-Hunter made a motion to pay the bills. President Knuff seconded the motion. Director Salgo asked if the PUA invoices were normal. Operations Manager Swanks said the PUA invoice did look different and that he would ask Landscape Resources if a water line was broken during the billing period.

Director Salgo moved to amend the motion to pay the bills to include the \$40,000 Landscape Resources invoice for the boring for the mainline loop. Director Rew-Hunter agreed to the amended motion. President Knuff seconded the amended motion. President Knuff took a voice vote and the motion **PASSED** unanimously.

Next, Director Salgo asked for The Carlton Firm to segregate billing for the demands and litigation related to illegal cutting in the Preserve, and Ms. McDaniel confirmed that they would.

The Board took **NO FURTHER ACTION** on this item.

Item No. 4

Item No. 6 was to review and approve minutes of the November 11, 2021 regular meeting. President Knuff made a motion to approve the minutes. Director Salgo seconded the motion.

President Knuff asked for revisions. Director Salgo said the penultimate sentence on Item 9 to say the area is along Bee Cave Road and to call the item "t-posts" instead of "prongs." Ms. McDaniel stated that's she would revise the minutes as requested. On Item 7, the sentence describing the previously approved costs would need to be revised to say \$9,500 in permits and \$18,500 for structural design. Director Salgo said the minutes have improved.

Director RH asked if the word "commemorative" should be included in Item 8, regarding former Director Goff's gift, rather than "memorial." All agreed.

President Knuff took a voice vote and the motion **PASSED** unanimously. The Board took **NO FURTHER ACTION** on this item.

Item No. 6

Item No. 6 was to discuss, consider, and take action as necessary regarding maintenance of the District's facilities, including the ongoing Stormwater Basin Maintenance Project. Operations Manager Swanks reported that contracts were signed with DigDug and work would begin on December 13 with Tom Hagemeyer supervising.

The Board took **NO ACTION** on this item.

Item No. 8

Item No. 8 was to discuss, consider, and take action as necessary regarding the ongoing activities of the West Travis County Public Utility Agency ("PUA"). President Knuff read an email regarding the last PUA meeting and noting that there will be no PUA meeting in December. President Knuff will forward the email to Ms. McDaniel who will send it to the Directors.

Michael Husband entered the meeting room at 8:46. Mr. Husbands said he had discussions with Texas Gas to bring natural gas to the neighborhood and that Texas Gas wished to survey the neighborhood to gauge interest. Texas Gas plans to bring a rough estimate for putting a natural gas line along Resaca and down to the Pointe and to present the plan to the neighborhood. The cost savings versus propane, he says, would be about 60%. Mr. Husbands asked if it was possible to use the existing lines for propane. Director Salgo and President Knuff said that legal should review District's jurisdiction over utilities, as a similar issue had arisen in the past, and the District was statutorily unable to participate in that project. Director Rew-Hunter proposed adding the item to a future agenda.

Finally, Mr. Husbands notified the Board that the Pointe HOA meeting was scheduled for the following week. He encouraged anyone interested to run for the HOA board because there are three open seats.

The Board took **NO ACTION** on this item.

Item No. 10

Item No. 10 was to discuss, consider, and take action as necessary regarding the District's website. President Knuff reported that biographies for Directors Flaws and Handsel had been added to the District website and that President Knuff's biography will be removed immediately after the meeting. Director Flaws reported that for about an extra \$6 per month, the District could upload meeting minutes to a central location on the website.

The Board took **NO ACTION** on this item.

Item No. 12

Item No. 12 was to discuss, consider, and take action as necessary regarding the engagement of an auditor to conduct the District's annual audit. President Knuff stated he would send the executed engagement letter to Operations Manager Swanks and Ms. McDaniel.

The Board took **NO ACTION** on this item.

EXECUTIVE SESSION

The Texas Open Meetings Act, Chapter 551 of the Texas Government Code, authorizes the Board of Directors to convene in close or executive session for certain purposes, including receiving legal advice from the District's attorney (Sec. 551.071); discussing real property matters (Sec. 551.072); discussing gifts and donations (Sec. 551.073); discussing security personnel or devices (Sec. 551.076); and discussing information technology security practices (Sec. 551.089). If the Board of Directors goes into executive session to discuss any item on this agenda, the President Officer will announce that the Board will meet in Executive Session will be held, will note the time, and will identify the item to be discussed and the provision of the Open Meetings Act which authorizes the Executive Session. The District may meet in executive session on any agenda item or any item listed below:

- A. the District's Preserve;
- B. West Travis County PUA;
- C. Safety issues related to COVID-19; and
- D. ongoing or pending litigation involving the District.

At 9:01, the Board retired to executive session pursuant to Section 551.071 of the Texas Government Code to discuss ongoing or pending litigation involving the District with the District's attorney.

At 9:37, the Board returned from executive session. The Board took no action and made no motions while in Executive Session.

Item No. 11

The Board returned to this item. Director Salgo made a motion to authorize The Carlton Firm to draft and send written correspondence to notify SureTec Insurance Company regarding the District's consideration of sending a notice of potential the contractor in default on the Resaca Boulevard Fence Project and to arrange a conference between the District, Johnson Services, and SureTec within 15 days of the date of the letter, in accordance with Section 2.1 of the performance bond. Director Handsel seconded the motion. Director Salgo called for a voice vote, and the motion **PASSED** with "ayes" from Directors Flaws, Handsel, Rew-Hunter, and Salgo. President Knuff abstained.

Ms. McDaniel confirmed that she would begin drafting the requested correspondence. The Board took **NO FURTHER ACTION** on this item.

Item No. 13

Item No. 4 was to discuss, consider, and take action as necessary regarding the resignation of President Steven Knuff. President Knuff presented his signed letter of resignation to the Board. The Directors thanked President Knuff for serving the District so well for six years. President Knuff stated that he had enjoyed his work with the District.

The Board took **NO ACTION** on this item.

Item No. 14

Item No. 14 was to discuss future agenda items

The Board took **NO ACTION** on this item.

Item No. 15

Item No. 15 was adjournment

The meeting was adjourned at 9:48 pm.

PASSED, APPROVED, AND ADOPTED this 13th day of January 2022.





Jody Flaws, Secretary-Treasurer