

# LAKE POINTE MUNICIPAL UTILITY DISTRICT

## MINUTES OF A MEETING OF THE BOARD OF DIRECTORS

March 10, 2022

The Board of Directors of Lake Pointe Municipal Utility District (the “District”) met in person in a regular session on March 10, 2022, at 7:00 p.m., open to the public. The District posted a copy of the notice of meeting, attached as “Exhibit A.”

President Salgo called the meeting to order at 7:00 p.m.

### Item No. 1

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

Director Robert Salgo  
Director Penny Handsel  
Director Jody Flaws  
Director Jason Rew-Hunter  
Director Terry Elam

Also in attendance were William Swanks with TUMCO, Ja-Mar Prince with Texas Disposal Systems (“TDS”), Blake Foree and Josiah Longbons with Landscape Resources, Amy Emerson with Allensworth Law, and Grayson McDaniel and Kelsey Daugherty with The Carlton Law Firm.

### Item No. 8

Item No. 8 was to discuss, consider, and take action as necessary regarding Texas Disposal Systems (“TDS”). TDS Municipal Sales Supervisor, Ja-Mar Prince, appeared on behalf of TDS and answered questions from the Directors.

First, Director Rew-Hunter asked Mr. Prince how often TDS fails to pick up trash as scheduled in the District. Mr. Prince said that his team ran a query regarding any recent issues with non-collection, but TDS had no recorded issues since October 2021. Mr. Prince explained that issues with non-collection happen infrequently, but that COVID-19 and the recent economic situation have caused some problems with retaining enough drivers. Despite TDS having paid drivers a bonus, it is still having problems maintaining sufficient staff. Mr. Prince noted that difficulties retaining enough drivers is not an issue unique to TDS but is industry wide.

Next, Director Rew-Hunter asked Mr. Prince why TDS permits individual households to select from two set dates for bulk trash pickup rather than TDS setting one bulk pickup date for the whole neighborhood. Mr. Prince explained that permitting residents to select their pickup date for bulk trash allows flexibility for the residents. Director Elam mentioned that in the past, there have been times that the Lake Pointe neighborhood would temporarily place a dumpster in an easily accessible location, like the elementary school, for residents to dispose of bulk trash, and asked whether this was successful. Director Handsel explained that there was a lot of leftover trash around the dumpster when it was removed. President Salgo also noted that there was concern in the neighborhood that the dumpster was used by non-residents.

Next, Director Flaws asked Mr. Prince about TDS's recycling pickup schedule, which currently is only once every two weeks. Mr. Prince stated that TDS is considering increasing recycling pickup to once a week, and that he would update the Board on this point within two weeks.

Next, President Salgo asked about TDS's commodity adjustment fee. Mr. Prince responded that the fee was \$2.00 in 2020-2022 and is scheduled to increase to \$2.27 in 2026.

Director Handsel expressed her appreciation for TDS's drivers, noting that she has always had a positive experience with them. Director Elam agreed. The Directors thanked Mr. Prince for taking the time to meet with them.

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

#### **Item No. 6.**

Item No. 6 was to discuss, consider, and take action as necessary regarding landscape services within the Lake Pointe subdivision. Blake Foree, with Landscape Resources, presented a proposal to the Board to purchase a pond pump irrigation controller/freeze sensor for \$248.97. Operations Manager Swanks supported the proposal. Director Rew-Hunter agreed, noting that the Board received several complaints about sprinklers being on while it was raining.

Director Salgo moved to approve Landscape Resources' proposal to purchase a pond pump irrigation controller/freeze sensor for \$248.97. Director Elam seconded the motion. President Salgo asked for questions and, hearing none, called for a voice vote. The motion **PASSED** unanimously.

Next, Mr. Foree presented a proposal for Resaca Boulevard tree trimming for \$6,732.00 and \$3,672.00, for a total of \$10,404.00. President Salgo noted that this is done every two to three years, so it is time to trim the trees again. President Salgo noted that the cost would be allocated to the "tree maintenance" budget line item. Operations Manager Swanks explained that residents are not allowed to cut oak trees from February 1<sup>st</sup> to July 1<sup>st</sup> each year to prevent oak wilt. Mr. Longbons recommended trimming the trees in July instead of December. The Board **tabled** the trimming proposal until the June meeting.

Next, Director Elam asked Landscape Resources about planting in the median on Resaca Boulevard, particularly the benefits and drawbacks of planting Asiatic Jasmine in the median to coordinate with the Asiatic Jasmine behind and along the pillar on Resaca Boulevard. Mr. Longbons

said planting in the medians would increase the visual appeal, that Asiatic Jasmine is more visually appealing than sod, and that it recovered well after the February 2021 storm. However, due to the cost of Asiatic Jasmine, Mr. Longbons suggested waiting until the District's next fiscal year, or to consider interspersing Asiatic Jasmine with the more cost-effective Super Blue Liriope (also called "Lilyturf"), since the last time Landscape Resources considered planting vegetation on the three front islands, the estimated cost was close to \$500,000.00. Director Elam asked Landscape Resources to provide proposals for planting Asiatic Jasmine on the two islands on Resaca Boulevard to accomplish as soon as practicable.

Next, the Directors briefly discussed the plan for landscaping along the wall project planned for Resaca Boulevard. President Salgo stated that currently the District's agreement with the Pointe HOA is that the District is responsible for the cost of building the wall, and the HOA will pay for the landscaping and related irrigation along the wall. The most recent estimated price is \$1.7 million, approximately, for construction of the wall and \$400,00 for landscaping and irrigation. Director Flaws requested that Landscape Resources provide a proposal for the landscaping and irrigation. Mr. Longbons agreed to email the Board the designs that were proposed last year and to create design proposals.

Next, Director Elam asked about the schedule Landscape Resources follows regarding clearing brush or dead vegetation around the Community Pond. Operations Manager Swanks explained that brush is cleared as needed and Landscape Resources mows and cuts weeds once a month.

Finally, Director Flaws requested that Landscape Resources send him a copy of their contract with the District to save to the District's network.

The Board took **NO FURTHER 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 7:49 p.m., 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 9:35 p.m., the Board returned from executive session. The Board took no action and made no motions while in Executive Session.

#### **Item No. 9**

Item No. 9 was to discuss, consider, and take action as necessary regarding the Boundary (Resaca) Fence project within the Lake Pointe Subdivisions.

President Salgo moved to authorize Director Flaws to work with Amy Emerson, with Allensworth Law, and the Carlton Law Firm to negotiate a reasonable counteroffer to the settlement offer proposed by Johnson Services regarding the contractual dispute concerning construction of the wall. Director Rew-Hunter seconded the motion. President Salgo asked for questions and, hearing none, called for a voice vote. The motion **PASSED** unanimously.

The Board took **NO FURTHER 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 the District's bills and invoices. Operations Manager Swanks and the Directors considered questions regarding the bills from Dyezz Surveillance and Security and from Jones|Carter. It is unclear whether the \$135.31 charged by Dyezz should be charged to the District or the Pointe HOA. The Directors decided to set the Jones|Carter invoice aside to try to determine the reason for 31 hours charged by the design engineer.

Director Elam asked why the District receives more than one electric bill and noted that each bill contains a separate administrative fee. Operations Manager Swanks explained that the District is billed on a per-meter basis and has two meters, one for the pool pump and the other for the Carlsbad fountain and aerator, which explained the separate bills, and each bill imposes an administrative fee.

President Salgo moved to pay the bills except for the bills for Dyezz Surveillance and Security and Jones|Carter. Director Flaws seconded the motion. President Salgo asked for questions and, hearing none, called for a voice vote. The motion **PASSED** unanimously.

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

#### **Item No. 4**

Item No. 4 was to review and approve minutes of the February 10, 2022, regular meeting, and the February 28, 2022, special meeting. The Directors requested that several revisions be made to the February 10 minutes. Ms. McDaniel agreed to make the revisions.

Director Rew-Hunter moved to approve the minutes, including the revisions to the February 10 minutes. President Salgo seconded the motion. President Salgo asked for questions and, hearing none, called for a voice vote. The motion **PASSED** unanimously.

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

#### **Item No. 10**

Item No. 10 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 presented a proposal from Austin Fence Repair to repair fences around four District ponds, including Normandy Ridge, Lion Club Court, and Napa, for \$2,700. Operations Manager Swanks explained that Austin Fence Repair estimated that it would be ready to perform the fence replacement in six weeks. After a brief discussion, Director Handsel moved to approve the Austin Fence Repair proposal for \$2,700. Director Rew-Hunter seconded the motion. President Salgo asked for questions and, hearing none, called for a voice vote. The motion **PASSED** unanimously.

Next, regarding the chain-link fence at Napa Pond that the Board considered at the February 10 meeting, President Salgo stated that he spoke with Jennifer Reichers with the West Travis County Public Utility Authority ("PUA"), and she is amenable to conveying any ownership interest the PUA has in the location to the District. After the February meeting, Director Elam, Mike Burshnick, Ms. Reichers, and President Salgo met and agreed that the PUA owns the property. President Salgo proposed that the portion of the property where Napa Pond and the surrounding fence are located be surveyed and conveyed to the District. Ms. Reichers asked President Salgo to memorialize the proposal in an email, copying Jason Bethke, for presentation to and consideration by the PUA Board. President Salgo said there was confusion about why the pond was not conveyed to the District originally, and suggested that it might have happened because neither LCRA nor the District conducted a survey of the area.

The Directors discussed the proposed conveyance. Director Handsel asked if there were any environmental concerns regarding the land to be conveyed. Operations Manager Swanks said there were not. Director Elam noted that the area to be conveyed is littered with trash and debris. President Salgo noted that the proposal is just an outline, and not yet a formal deal. Director Handsel stated that she believed the proposal was in the best interest of the community. President Salgo said he would update the Directors about the potential conveyance at the April meeting.

Next, Director Elam reported to the Directors about the Facilities subcommittee, which now consists of four individuals: Director Elam, Kyle Morgan, Anna Barnett, and Jessie D'Andrea. Between the February and March meetings, the subcommittee met to discuss possible improvements to the Carlsbad Pond, including re-stocking the pond with fish. Director Elam presented a proposal from

Aquatic Features to stock the pond with bluegill, red ear, minnows, catfish, and bass (approximately 30-50 of each type of fish), for a total of \$561.50. Aquatic Features suggested stocking it soon so the fish have ample time to grow before spawning season. The Directors had a discussion regarding the potential benefits and downsides of stocking the pond. Director Handsel said she thought that the District was not supposed to have fish in the pond because of wastewater runoff, and that fish were first introduced to the pond by a resident who did not tell the District. Operations Manager Swanks stated that Aquatic Features had stocked the pond with carp in the past to eat the algae, and President Salgo noted that the pond was also stocked with fish for the neighborhood children and families. There did used to be a concern about fish and bird waste in the water, but since the pond is filled with raw water, such waste is inevitable anyway. Director Rew-Hunter asked about which budget line item would correspond to stocking the pond. Operations Manager Swanks suggested that it would best fall under “Park Improvements,” because “Drainage Pond Maintenance,” no longer had the funds.

Director Rew-Hunter made a motion to approve the Aquatic Features proposal to stock the Carlsbad Pond for \$561.50. Director Elam seconded the motion. President Salgo asked for questions and, hearing none, called for a voice vote. The motion **PASSED** unanimously.

Next, Director Elam and Operations Manager Swanks presented options for the Board to consider regarding installation of an aerator in the Lake Pointe Community Pond. Operations Manager Swanks received a \$1,136.00 pre-tax cost estimate to repair the existing aerator. Director Elam proposed that rather than repair the existing aerator for \$1,136.00, the District could consider upgrading and purchasing a fountain instead, for \$6,615.00. Director Elam stated that with the new trail that is being constructed, the pond is more in the view of the public, which is why he would like to make it more aesthetically pleasing. Operations Manager Swanks noted that if a fountain was preferred, the District would need to hire an electrician to inspect whether the current electrical would support the pump. The fountain is advertised to operate in 16-24” of water. Director Rew-Hunter asked how reliable the existing Lake Pointe Community Pond fountain is, and President Salgo explained that it has needed to be replaced about once every ten years.

Tangentially, Director Elam noted that the Board might consider in the future installing a gauge in the Lake Pointe Community Pond to indicate when it is low, because the pond has always been used for irrigation and the water level fluctuates. Operations Manager Swanks stated that Lake Pointe Community Pond uses 500,000 gallons a week and the District loses 300,000 gallons a week to evaporation and irrigation. Operations Manager Swanks regularly asks for water from the LCRA, who receives water from the PUA, to fill the pond for a nominal fee.

At Director Handsel’s suggestion, Director Elam made a motion to approve the proposal from Aquatic Features to replace the aerator at the Lake Pointe Community Pond with a fountain aerator for \$6,615.00, contingent on appropriate electrical services. Director Flaws seconded the motion. After a brief discussion, President Salgo called for a voice vote, and the motion **PASSED** unanimously.

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

## **Item No. 12**

Item No. 12 was to discuss, consider, and take action as necessary regarding committees or subcommittees of the District's Board of Directors. Director Flaws proposed creating a Finance subcommittee to provide oversight and information regarding District investments, the budget, and other finance-related concerns.

Director Rew-Hunter made a motion for Director Flaws to head a Finance subcommittee for the District. President Salgo seconded the motion. President Salgo called for a voice vote, and the motion **PASSED** unanimously.

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

### **Item No. 11**

Item No. 11 was to discuss, consider, and take action as necessary regarding the Preserve. Operations Manager Swanks stated that he has obtained the signs for the Preserve that the Board requested he purchase, but has not yet installed them. Director Elam suggested placing a QR code on the signs that people could scan with their smart phone to link people to the District's website and the Preserve rules. Operations Manager Swanks agreed to make stickers with a QR code and attach them to the bottom corner of the signs.

Next, President Salgo mentioned that a board on the swim dock was beginning to warp, creating a tripping hazard. Operations Manager Swanks stated that he would repair the board.

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

### **Item No. 13**

Item No. 13 was to discuss, consider, and take action as necessary regarding annual review of the District's investment policy. The District's investment policy was revised, as requested at the February meeting, to add PNC Bank as a depository and to remove BBV Compass as a depository. Noting that the correction had been made, President Salgo signed the TCEQ Filing Affidavit for the policy. With that completed, Ms. McDaniel stated that the District may revisit the Investment Policy, if appropriate, in December 2022.

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

### **Item No. 14**

Item No. 14 was to discuss, consider, and take action as necessary regarding the District's website. Director Flaws reported that he is trying to streamline the District's website and email as much as possible, and hopes it will be easier to find things in 6 to 9 months.

The Directors discussed the possibility of shared folders or drives with the District's attorney and the possibility of uploading agendas and historical files to the network. Director Elam did not receive the March Board packet and inquired as to whether it could be posted or saved to the network. Director Elam suggested each director having one email address that corresponds to their Board office (for example, "president@lakepointemud.org"), rather than by the directors' names to reduce the number of email addresses needed by future Boards.

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

## **Item No. 2**

Item No. 2 was to receive public comment on items not on the agenda. There was no public comment.

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. 7**

Item No. 7 was to discuss, consider, and take action as necessary regarding the ongoing activities of the West Travis County Public Utility Agency ("PUA"). Director Flaws agreed to include Jason Bethke, the District's representative to the PUA, on the meeting-invitation list for April. Director Rew-Hunter proposed requesting Mr. Bethke's attendance at the Board meetings going forward. Director Elam agreed that a brief monthly update from Mr. Bethke would be helpful.

Director Elam explained that he has started copying Mr. Bethke on PUA-related emails regarding the District. President Salgo asked that he also be copied on such emails to ensure that he understood what was being communicated, similar to how President Salgo copies Vice-President Handsel on items about which he thinks she should be aware. Similarly, sometimes Ms. McDaniel also needs to be copied, depending on the nature of the communication. President Salgo said that as Board president, he generally wants to be the District's spokesperson to external individuals and entities, as consistency can be compromised by the District having multiple Directors in communication with outside individuals.

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

**Item No. 15**

Item No. 15 was items for future agendas.

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

**Item No. 14**

Item No. 14 was adjournment. Director Rew-Hunter moved to adjourn the meeting. Director Elam seconded the motion. President Salgo called for a voice vote and the motion **PASSED** unanimously.

The meeting was adjourned at 11:19 p.m.

**PASSED, APPROVED, AND ADOPTED this 14 day of April 2022.**

  
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Jody Flaws, Secretary-Treasurer

