

LAKE POINTE MUNICIPAL UTILITY DISTRICT

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS

June 9, 2022

The Board of Directors of Lake Pointe Municipal Utility District (the “District”) met in person in a regular session on June 9, 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 7:02 p.m.

Item No. 1

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

Director Robert Salgo
Director Penny Handsel
Director Jason Rew-Hunter

Directors Terry Elam and Jody Flaws were absent. Also in attendance were William Swanks with TUMCO, Josiah Longbons with Landscape Resources, Jim Norris, Kevin McKeown, and Grayson McDaniel with The Carlton Law Firm.

Item No. 12

Item No. 12 was to discuss, consider, and take action as necessary regarding the Supplemental Agenda for November Director Election Items.

The Supplemental Agenda for November Director Election Items was not posted within the required 72-hour timeframe prior to the meeting. The Directors thus tabled this item until the agenda can be properly posted. The Board plans to hold a special meeting on June 23 or sooner to address the November Director Election items.

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. First, Mr. Longbons presented a proposal for drainage outlet clearing for \$2,720.00. Mr. Longbons explained the HOA assistant manager reached out to him about a storm sewer backing up and sending water down a resident’s driveway on Adelanto Court. Mr. Longbons and Operations Manager Swanks walked the area and saw that the outlet is overgrown with weeds and shrubs. Landscape Resources proposes digging these items out of the ground with a mini excavator. The work will allow the water and leaf debris to flow unobstructed to the Preserve. Landscape Resources

will flush the street level to ensure removal of the debris that has accumulated. Landscape Resources will also remove and dispose of any silt-fence remains from the area.

Next, Mr. Longbons presented a proposal for stump grinding at Brittany Point for \$1,585.00. Mr. Longbons explained that eight small to medium-sized stumps need to be ground down around the retention pond fence, three shrub clusters, and one large stump (including the roots) and cover the areas with new topsoil and sod. President Salgo stated that there should not be any sod put down by the big stump as it would likely fail due to lack of irrigation. President Salgo noted that there is a sprinkler head in the roots and asked if that would be destroyed when grinding the stump. Mr. Longbons said that Landscape Resources would repair the head if it was active and broken in the process. President Salgo mentioned that Landscape Resources provided a different proposal for removing trees and that some of that effort might be able to apply to the Brittany Point property, as well. Mr. Longbons said if the proposals are approved, Landscape Resources will work on bundling the projects to benefit the residence. Mr. Longbons proposed grinding the stump below grade and adding topsoil to make the area presentable and then let nature naturally cover the area. President Salgo asked whether, if the Board approved the proposal for removing the eight trees, the work could be combined, and Mr. Longbons Confirmed that it could.

Next, Mr. Longbons presented a proposal for dead and declining tree removal for \$4,350.00. He explained that Landscape Resources conducted an assessment after the 2021 polar vortex and removed some trees that died. Since then, though, some trees have declined, including one dead and two severely damaged trees along Sonoma, Andrea Ridge; one dead and one severely declining tree at the Resaca entry; and two dead and one severely declining tree along Resaca for a total of eight trees. Landscape Resources will cut the trees to grade and grind the stumps. President Salgo noted that the total cost of the proposal broke down to about \$540 per tree, and Mr. Longbons agreed.

Next, Mr. Longbons presented a proposal for Lyon's Club Court tree cleanup and removal for \$4,600.00. Landscape Resources proposes lifting the tree limbs all around the retention pond and removing the large dead tree between the fence lines, and removing scrub brush around the fence and removing all debris. President Salgo asked about completing the work during the period that live oaks can be trimmed safely and mentioned the fence repair would happen before the tree trimming. Mr. Longbons suggested trimming the trees before the fence repair to limit any possible damage to the fence.

Next, Mr. Longbons explained that it was coming time to trim oaks, so Landscape Resources is resubmitting the proposal for roadside tree lift along Sonoma, Bayton, and Napa Drive entrance, for \$3,672.00. He said that he hoped to get the proposal approved so the work can be scheduled after July 1, 2022. President Salgo confirmed that the sizes in the proposals were for feet and not inches, and Mr. Longbons said that was correct and that the proposal had a typographical error.

Next, Mr. Longbons explained that erosion issues are occurring on the stone walking path behind the Clubhouse—water is sheeting downhill from the parking lot. Mr. Longbons mentioned that the issue had been in discussion before on whether it was a parking-lot-maintenance issue or a landscaping issue. Mr. Longbons presented a proposal for \$7,960.00 to rebuild the stone walkway and construct a berm for erosion control. He explained that the proposal is to rebuild the stone walkway with a 40-foot low-profile chop block border. Landscape Resources would construct a berm from 12 yards of soil and a pallet of plant material to divert the flow of runoff water and 10-foot steel edging. Mr. Longbons said there is currently irrigation set up in that area that would help maintain any soil there. President Salgo

asked if the District is bound to make the stone path leading down to the picnic table ADA-compliant since it is on District property. Ms. McDaniel asked if the walkway is currently ADA-compliant and President Salgo said it is not, because the slope is too steep. Ms. McDaniel said she would find out if the walking trail must be ADA-compliant. Director Rew-Hunter stated that the District could consider creating an accessible trail in the future, but was not sure that the point was salient with regard to the existing pathway. President Salgo explained that the pathway had to be rebuilt, but queried whether the money should be spent to only fix part of the problem, if ADA compliance is required.

Next, Mr. Longbons stated that the Asian Jasmine on the first Resaca Boulevard island had been installed successfully and looked great, and proposed planting Asian Jasmine on the second Resaca Boulevard island for \$74,560.00. President Salgo noted that the second island wasn't considered before due to the planned expense of the Resaca Boulevard wall project. Director Handsel asked about the HOA's responsibility with regard to landscaping. President Salgo explained that the District took over irrigation from the HOA years ago and that the District is responsible for maintaining the appearance of the landscaping. Director Handsel said she understood but was wanting to make sure that was within the scope of the District as a Municipal Utility District. Ms. McDaniel stated that the Special Local Laws Code for West Travis County MUD No. 3 and No. 5, which were consolidated into Lake Pointe MUD, provides for conservation of the area.

Director Rews-Hunter moved to approve all of the proposals presented by Landscape Resources at the meeting, subject to opening the floor to discussion. President Salgo seconded the motion. President Salgo suggested holding off on the Asian Jasmine for the second Resaca Boulevard island in the amount of \$74,560 due to the issues with the Resaca wall project.

Director Rews-Hunter amended his motion to approve all of the proposals from Landscape Resources except for the Asian Jasmine proposal. Director Handsel seconded the motion. The Directors briefly discussed the erosion issue and decided that the erosion should be repaired now. Ms. McDaniel will research the ADA-compliance issue. President Salgo said the path needs to be fixed but the District does not want to exclude anyone unnecessarily from making use of the pathway. President Salgo asked if the work to repair the drainage can begin quickly if approved, to avoid the problem persisting into the rainier seasons, and Mr. Longbons said that could be done.

President Salgo stated that he appreciated Director Handsel's suggestions in the past to find the budget items to fit the proposals. Director Rews-Hunter mentioned the need for a budget reconciliation and President Salgo agreed. President Salgo and Operations Manager Swanks agreed that "Subdivision Improvements" could be used for some of these proposals. Operations Manager Swanks said that the drainage project could be assigned to a budget item on drainage. The "Pond Maintenance" item may also be used for one proposal. President Salgo mentioned the need to discuss and adopt a new budget and asked Ms. McDaniel when the District would have to do so. Ms. McDaniel explained that the Board needed to decide the budget before setting the tax rate for the following year and that the budget and tax rate must be adopted by September 27, and the Board must decide if it wants to call an election on the tax rate by August 22. President Salgo stated they would have two meetings to discuss the budget before making any decisions and the Board has never had an issue adopting the budget and tax rate in a timely fashion. The Board reviewed the proposals that were being approved.

President Salgo asked for further discussion on the motion. Hearing none, he called a voice vote and the motion **PASSED** unanimously.

Mr. Longbons confirmed that he will work with Operations Manager Swanks to coordinate the work on the proposals.

President Salgo told Mr. McKeown, who had entered the meeting a bit late, that the Board had passed a proposal to address the stump issue at his residence and thanked him for attending the meeting. Mr. McKeown suggested that the Board consider some kind of replacement funds for when shrubbery or other landscaping dies. President Salgo said that there was always a need to pick and choose, but the District would get to those projects eventually.

President Salgo thanked Mr. Longbons for his work and attendance.

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 committees or subcommittees of the District's Board of Directors, including the Facilities, Finance, and Parks committees. Director Handsel said she did not have a report on the Preserve this month. Director Flaws and Director Elam were absent, so there was no report on Facilities or Finance.

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

Item No. 9

Item No. 9 was to discuss, consider, and take action as necessary regarding maintenance of the District's facilities, including the ongoing Stormwater Basin Maintenance Project. President Salgo mentioned the need for attention to drainage issues. Operations Manager Swanks agreed. He said he would review Doucett Engineering's report to identify if drainage was addressed and report back.

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 Preserve.

Mr. Norris reported that he had a meeting with City of Austin regarding the site-plan comments about a conservation area. He stated that the City of Austin's concern had been resolved because the conservation area can be accessible. Mr. Norris sent the City the document with highlighted areas to focus on showing how their issue could be resolved. Mr. Norris said that he emailed Director Handsel in the event that she also wanted to attend the meeting. President Salgo asked if there would be a resolution, and Mr. Norris said he asked Mr. Hawkins with Aqua Permits to document the results of the meeting as it had been favorable. Mr. Norris expects that all of City of Austin's issues will be resolved and he will be able to obtain a permit.

Next, Operations Manager Swanks said that the gate to enter the Preserve had been hit by a contractor with the Public Utility Agency ("PUA") and had been significantly damaged. Operations Manager Swanks explained that he was in contact, and the contractor is in the process of fixing the damage. President Salgo asked if the gate is currently open, and Operations Manager Swanks confirmed

that for now it is. Director Rew-Hunter asked if the issue with the minors breaking into the gate had been resolved. President Salgo said he had visited with them and their parents and they apologized, and President Salgo told them they can get a fob to enter the Preserve if they needed.

Next, President Salgo said that he noticed that a resident near the resident with the drainage problem had taken down the habitat fence. President Salgo notified the HOA president, Linda Kniebel, to please handle that issue, as it is a restrictive covenant applicable to the property.

Next, President Salgo asked Operations Manager Swanks what was happening with fire-break clearing of trees in the Preserve. Operations Manager Swanks said the fire-break clearing has not been scheduled, but he plans to contact Lake Travis Fire to check if they will do it. President Salgo said he was concerned about fireworks causing problems in July. Director Rew-Hunter asked if there is a fire-prevention plan in case a boat dock is constructed in the Preserve. Mr. Norris said it would be mandatory that there be fire extinguishers, but that he was not aware of any other requirements. Director Rew-Hunter noted that the group presenting the dock proposal should include fire prevention in whatever they propose. President Salgo noted, in addition, that if a “boat dock HOA” or related entity does form in the future that there will need to be a robust agreement in place between that group and the District, addressing access and other important issues. Mr. Norris agreed. Director Rew-Hunter mentioned that there would be liability regarding the boat dock if there was a fire. Mr. Norris said he has already started reaching out to insurers. Director Rew-Hunter discussed a few worries he had regarding the liability issue.

Director Handsel said it would be great to look into regulating fireworks in the area. Operations Manager Swanks said he thinks that only a Board member could complain about the fireworks in the Preserve. He explained that the issue came up with regard to trespassers in the Preserve that they had to get the Sheriff involved in as they are the individuals entrusted with the supervision of the Preserve and enforcing the rules. The HOA may be able to prohibit fireworks. President Salgo said it was Travis County that could put a burn ban in place, but Director Handsel mentioned there was a large fire station nearby and they should be able to respond to any fire issues that could arise.

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”), including receiving a report from Jason Bethke.

First, the Board discussed constructing the fence around the Napa Park detention pond. Operations Manager Swanks asked if the Memorandum of Understanding (“MOU”) that President Salgo is negotiating, and which was included in the Board packet was necessary to work on the fence issue. President Salgo suggested sending it back signed to the PUA. Ms. McDaniel said she thought the MOU seemed unobjectionable from a legal standpoint. President Salgo said that if he signs, then Ms. Riechers can sign after the PUA Board has approved, and the MOU will be effective. President Salgo asked about bids for the fence. Operations Manager Swanks said there are four bids for the fence itself:

- Discount Fence: \$15,564.00

- Buzz Fence: \$14,203.00
- Allied Fence: \$11,225.00; and
- K2 Fence: \$9,924.00. K2 also provided a bid just for staining the fence for \$1,782.00. Since he did not request staining, Operations Manager Swanks suggested the Board vote separately on the staining from the fence item.

President Salgo said K2 is known to be able to build a good fence and as they are the low bid he did not see the need to spend more money than needed. Director Rew-Hunter asked when the work could be started. President Salgo said if the Board approves the MOU and approves a bid amount for the fence, then Operations Manager Swanks can inform K2 after the MOU is in place. Operations Manager Swanks said K2 requested a 50% deposit as a down payment. President Salgo said that the item can go in the “Subdivision Improvements” line item.

Director Rew-Hunter moved to approve the K2 bid for the fence and for the staining, contingent on the execution of the MOU. President Salgo seconded the motion. President Salgo asked for discussion and, hearing none, took a voice vote, and the motion **PASSED** unanimously.

Next, Director Rew-Hunter said that at Emerald Falls there was some sinking in the road. Operations Manager Swanks suggested calling the PUA to come out and do a leak inspection, as that area had groundwater issues when constructed, and there could be a below-ground leak causing the soil under the road to subside. President Salgo said the base material under the asphalt can sometimes come out. If there is a water leak, the PUA will fix the water line. Director Rew-Hunter asked Operations Manager Swanks if he could inspect it, too.

Finally, President Salgo said he thinks Mr. Bethke will attend the July meeting.

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 roadway access;
- B. the District’s Preserve permit renewal;
- C. Johnson Services Company matters; and
- D. Ongoing or pending litigation involving the District.

At 8:25 p.m., the Board retired to executive session, pursuant to Section 551.071 of the Texas Government Code.

At 9:09 p.m., the Board returned from executive session. The Board took no action and made no motions while in Executive Session.

Item No. 8

Item No. 8 was to discuss, consider, and take action as necessary regarding the Resaca Boulevard Fence project within the Lake Pointe Subdivision.

Director Rew-Hunter made a motion to authorize Allensworth Law to send a demand notice to the surety to demand performance of the surety's obligations under the bond. President Salgo seconded the motion. Director Rew-Hunter made an amended motion to authorize Allensworth Law to send a demand notice to the surety to demand performance of the surety's obligations under the bond and, should the surety not perform, to send any follow-up correspondence. President Salgo seconded the amended motion. President Salgo asked for further discussion and, hearing none, took a voice vote and the motion **PASSED** unanimously.

President Salgo made a motion to name a subcommittee of two, consisting of himself and Director Elam, to meet with the HOA to discuss the future of the wall contract. Director Rews-Hunter seconded the motion. President Salgo asked for further discussion and, hearing none, took a voice vote and 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.

The Board discussed the issue regarding Aquatic Features being sent the \$500 invoice but charging the District for the \$800 fish-stocking invoice. Operations Manager Swanks confirmed and that the error has been corrected by Aquatic Feature and repaid.

President Salgo made a motion to pay the bills. Director Rew-Hunter seconded the motion. President Salgo asked for further discussion and, hearing none, took a voice vote and the motion **PASSED** unanimously.

President Salgo discussed the Allensworth invoice asked if all the District owes to Allensworth for this month is \$2,541.64, and Ms. McDaniel confirmed she would double-check with Mr. Carlton. President Salgo asked about why Yolanda Lara's time was written off, and Ms. McDaniel explained that the hours were written off as a courtesy to the District, but that does not reflect poorly or penalize Ms. Lara. President Salgo asked where the "Special Projects" items are in the budget, as the budget for next year will need to be discussed. The Directors discussed whether the "Special Projects" billing items

should go in the budget line item for “General,” or if the election-related legal fees should be assigned to the budget line item for “Elections.”

President Salgo asked about the difference between “Irrigation Repairs” and “Irrigation System Expense” in the budget. Operations Manager Swanks said he would check, but he thinks that “System Expense” is for planned upgrades. President Salgo and Operations Manager Swanks discussed a credit from the PUA and where that was included in the budget. The Board briefly discussed various other line items.

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

Item No. 4

Item No. 4 was to review and approve minutes of the May 12, 2022, regular meeting.

President Salgo sent revisions to the minutes to Ms. McDaniel over email, which she confirmed she received and will make and send to President Salgo in redline for approval. Director Rew-Hunter and Director Handsel made revisions.

President Salgo moved to approve the minutes as amended. Director Rew-Hunter seconded the motion. President Salgo asked for discussion and hearing none, called a voice vote, and the motion **PASSED** unanimously.

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

Item No. 2

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

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 from the HOA attended the meeting.

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

Item No. 13

Item No. 13 was to consider adoption of the tax and budget planning calendar for 2022, and take any related action. Ms. McDaniel distributed the memorandum and Lake Pointe tax-planning calendar for the Directors to consider, as the calendar was not in the Board packet. The Board tabled adoption of the tax-planning calendar until the special meeting or July regular meeting.

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

Item No. 14

Item No. 14 was to discuss, consider, and Review the District's Records Management Program and make changes as appropriate. Director Rew-Hunter made a motion adopt and appoint Director Flaws as the Records Manager and it was seconded by President Salgo. President Salgo asked for discussion and hearing none, called a voice vote, and the motion **PASSED** unanimously.

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

Item No. 15

Item No. 15 was to discuss, consider, and take action as necessary regarding coordination between the District and HOA regarding new construction and remodeling review and deposit process. The Board tabled this item.

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

Item No. 17

Item No. 17 was to discuss, consider, and take action as necessary regarding the District's website.

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

Item No. 18

Item No. 18 was items for future agendas. The Board plans to meet for a special meeting on June 15, 2022, at 7 p.m., pending clubhouse availability, to discuss election-related items on the supplemental agenda. In case that date does not work, the 20th will work unless there is an issue with meeting on a federal holiday.

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

Item No. 16

Item No. 16 was to discuss, consider, and take action as necessary regarding the necessity for the monthly Board meetings to provide remote access via Zoom. Director Rew-Hunter queried whether the District should livestream the meetings on Youtube. He said he thinks people expect government entities to have their meetings online. Operations Manager Swanks asked what equipment is needed. The Board asked to keep the item on the agenda for the next meeting.

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

Item No. 19

Item No. 19 was adjournment. President Salgo moved to adjourn. Director Rew-Hunter seconded the motion. The motion **PASSED** unanimously. The meeting was adjourned at 10:00 p.m.

The meeting was adjourned at 10:00 p.m.

PASSED, APPROVED, AND ADOPTED this 14 day of July 2022.



Jody Flaws, Secretary-Treasurer

