

**LAKE POINTE MUNICIPAL UTILITY DISTRICT
MINUTES**

November 10, 2022

The Board of Directors of Lake Pointe Municipal Utility District (“District”) met in person in regular session November 10, 2022, at 6:00 p.m., in a meeting open to the public. The District posted a copy of the Notice of the meeting as required.

President Salgo called the meeting to order at 6:02 p.m.

The following Board Members were present, thus constituting a quorum:

Robert Salgo	President	Present
Penny Handsel	Vice President	Present
Jody Flaws	Secretary/Treasurer	Present
Terry Elam	Director	Present
Jason Rew-Hunter	Director	Present
Scott Mincey	New Director	Present

Also in attendance were William Swanks with TUMCO, Josiah Longbons with Landscape Resources, Blake Foree with Landscapes Resources, Douglas Mains with Elite Computing, Pat Sinnott with Lake Pointe Homeowner’s Association, Kelli Carlton with The Carlton Law Firm, and members of the public.

PUBLIC COMMENT

- 1. Receive communications from the public on items not listed on the posted agenda.** President Salgo made an announcement regarding the recent passing of former Director Fred Goff. No other public comment.
- 2. Public Comment on Agenda Items.** No public comment.

DIRECTOR AND OFFICER MATTERS

- 3. Approve and accept statements and oaths of office for elected Directors;** Kelli Carlton swore in Directors Jody Flaws, Terry Elam and Scott Mincey. Directors Flaws, Elam and Mincey signed the statements and oaths.
- 4. Discuss, consider, and take action as necessary regarding election of officers;** Director Flaws expressed his gratitude to Mr. Salgo for his many of years of service on the Board of the District. Director Flaws moved to nominate Director Elam for President. Director Rew-Hunter seconded, and the motion carried 5-0. Director Handsel moved to nominate Director Flaws as Secretary/Treasurer. Director Elam seconded, and the motion carried 5-0. Director Flaws moved

to nominate Director Handsel for Vice-President. Director Elam seconded, and the motion carried 5-0.

REPORTS AND COMMITTEE MATTERS

5. **Receive landscape maintenance report and discuss and consider landscape services, including:** Josiah Longbons noted that Landscape Resources (“LRI”) is now on the winter service schedule, meaning three visits per month during the winter months. It is also fall/winter mulch time. It is a multi-day process to mulch all the beds.

A. **FY23 landscape services contract.** Ms. Carlton discussed the amended landscapes services contract approved by the Board in October. President Salgo signed the agreement prior to the meeting. Ms. Carlton will send the contract to Mr. Longbons for signature.

B. **Proposals.** President Elam moved to accept the berm extension proposal of \$2,192. Director Flaws seconded, and the motion carried 5-0. This expenditure will be under the Landscape-New budget item.

C. **Project Updates.** Mr. Longbons provided a report on the Bluff’s entrance projects. The entrances are completed, and the residents have noted the improvement. Mr. Longbons stated the Resaca island landscaping was completed but someone drove through it, causing significant damage. President Elam stated an accident was reported at that location and a police report was filed. The police report and insurance information were provided to the HOA, but the District did not have the information at meeting time. Mr. Swanks stated he anticipates about \$10,000 in damage to the area. Mr. Longbons will draft estimates for the repair, excluding the lighting, which Landscape Resources does not handle. Another contractor will have to provide an estimate for the damage to the lights.

The Board discussed how to contact the party responsible for the damage. The Board was told the responsible party is a resident of the District. Mr. Swanks had been told by the insurance company that the resident intended to pay for the repairs.

Sherie Artaza arrived at 7:15 p.m. and stated her brother was involved in the accident at the Resaca island. President Elam explained that the Board was obtaining a landscaping estimate for the repairs and would share the estimates for landscaping and lighting with her. Ms. Artaza apologized for the accident and stated she would make it right. Director Rew-Hunter told her that the estimate for repairs will be about \$10,000 and asked her if she preferred to pay for the repairs personally or for the District to make a claim on her insurance. Ms. Artaza requested the District file the claim with her insurance.

6. **Discuss, consider, and take action as necessary regarding the ongoing activities of the West Travis County Public Utility Agency (“PUA”).** Mr. Salgo provided emails to the Board regarding the lift stations. No report from the PUA; the last PUA information provided to the Board was in September. Director Flaws asked that the Board reach out to Jason Bethke for an update. The Board has questions regarding the locations of the lift station towers to be installed by the PUA.

7. **Receive update from the Lake Pointe Homeowners’ Association (“HOA”) and take action as necessary, including:**

A. Coordination between the District and HOA regarding new construction and remodeling review and deposit process. Pat Sinnott, HOA representative, stated the HOA will have a meeting on November 21 at 5:30 p.m. and Item 7A will be on the HOA agenda. Ms. Sinnott stated the HOA will create a list of items to complete over the next year and will discuss several items with the Board. Mr. Salgo noted that he communicated with HOA President Tim Pickering regarding the resident without a fence at the Preserve. Director Handsel stated she will attend the next HOA meeting and follow up on this Item. No action taken.

8. Receive report from committees and discuss and consider committees, committee structure and assignments, committee responsibilities, and any proposals presented by the committees, including: President Elam moved to create an Outreach Committee for working with the HOA, PUA, and any other outside groups, with the committee to be chaired by President Elam and Director Handsel. Director Flaws seconded, and the motion carried 5-0.

A. Facilities Committee

1) Wildflower seeding along Bee Cave Road. Mr. Salgo reported on the PUA reseeded. The PUA will reseed three acres with 18 pounds of wildflower seed before Thanksgiving.

2) General maintenance. Mr. Swanks reported that the wall repair is completed at Bee Cave, and the pillar, faux pillar, and rocks are repaired. Mr. Swanks stated the irrigation controllers at Resaca are repaired. He repaired the breaker. Mr. Swanks stated there is no power to that area; however, the HOA receives an electric bill for that area. Director Handsel stated she will address that invoice with the HOA. Director Handsel further stated she will also discuss mounting a bulletin board at the Lake Pointe Community Center for posting agendas. Mr. Swanks stated the gate operator is working as of November 10 and the gate can be opened using the keypad or a key fob. The app for opening the gate is not working. Mr. Swanks stated a fence panel is broken at Vista Ridge Park and the sign board at Resaca needs to be replaced or removed.

3) Ongoing Stormwater Basin Maintenance Project. Mr. Swanks stated he needs to schedule the Cattail removal at Carlsbad Pond and silt removal at Napa Pond. The silt removal will cost approximately \$4,000. Mr. Swanks will contact Aquatic Features regarding the Cattail removal and issues with the Cattails growing at the pond. He stated Travis County has no issues with the District's stormwater ponds. Mr. Swanks noted the District's engineer will inspect the ponds two times per year and make recommendations to the District. Mr. Swanks will reach out to the engineer.

B. Finance Committee - Director Flaws stated Ms. Carlton provided website requirements to the Board and Director Flaws said the website will be updated as soon as possible.

1) FY2022 and/or FY2023 budget amendments, if any. None this month.

2) Review and approve quarterly investment report for 3rd quarter. Ms. Carlton

described the Item and why it is on the agenda. Mr. Swanks discussed the investment report with the Board. Director Flaws moved for approval of the investment report as of October 31, 2022. Director Rew-Hunter seconded, and the motion carried 5-0. Mr. Swanks will connect Director Flaws with the bond advisor at Capital Investments.

C. Preserve Committee - President Elam moved to appoint Director Mincey as Co-Chair of the Preserve Committee. Director Flaws seconded, and the motion carried 5-0. Director Handsel stated approximately ten residents were interested in serving on the Preserve Committee. Director Handsel will work with the HOA on the kayak storage options. Ms. Carlton suggested the Board put any kayak storage procedures in place via resolution, so future Boards would know the process.

- 1) **Habitat Conservation Plan.** Discussion combined under Item C(4) below.
- 2) **Issues with replacement trees.** Ms. Carlton stated she sent a demand letter to a homeowner regarding replanting and maintaining the trees they replaced in the Preserve, and she sent another demand letter to another homeowner regarding the \$1,750 invoice for the work done by the District on the homeowner's behalf.
- 3) **Issues affecting the Preserve.** Mr. Swanks stated the firebreak work continues. The goal is to take out waxy leaf plants and invasives, and to complete the entire fire break project this year. The District must leave the native trees in place, per Forest Service requirement. Mr. Swanks stated that the contractor's employees threw some limbs over Canyon Cliff instead of hauling them off. The contractor admitted his employees dumped the limbs and they will clean up and haul the limbs away. Mr. Swanks stated the fire department will start clearing the hardest-to-reach areas in February, starting at Section 9. The original work by the private contractor was to be completed by Friday, November 18; however, the Board wants the private contractor to continue work to get as much done as possible while the weather allows. Director Handsel moved to engage Balboa Services to continue the firebreak work in the Preserve for another four weeks. Director Mincey seconded, and the motion carried 5-0. Mr. Swanks will send Ms. Carlton the Balboa Services proposal.
- 4) **Roadway access and permit renewal.** Ms. Carlton provided a lengthy background to the Board on the Habitat Conservation Plan, the Endangered Species Act ("Act") Section 10(a) Incidental Take Permit ("10(a) Permit") with the U.S. Fish & Wildlife Service ("FWS"), and the deeds on the Preserve property. The Section 10(a) Permit expired in 2009, but the Habitat Conservation Plan is ongoing, and was made part of the transfer of the Preserve to MUD5 when MUD3 deeded the land to MUD5. Ms. Carlton explained the Section 10(a) Permit was put in place by the developer of Lake Pointe and the FWS. Ms. Carlton explained the purpose of the 10(a) Permit and the penalties for violating the Act. Ms. Carlton further explained the Habitat Conservation Plan and the Agreement between former MUD3 and the Lake Pointe developer. Ms. Carlton advised the Board to start the conversation with the FWS if the Board wants to do work on the docks before the permit with the City of Austin expires on August 31, 2025. Director Handsel moved for the Preserve Committee Chair/Co-Chair to work with Ms.

Carlton to identify action plans regarding access to the swim dock. Director Flaws seconded, and the motion carried 5-0.

D. Communication Committee

- 1) **District's Google account updates, if necessary.** President Elam noted that emails to info@lakepointemud.org go to all Directors. Ms. Carlton advised the Directors not to communicate with one another on the shared emails to avoid a walking quorum. The Board discussed archiving Mr. Salgo's District emails. President Elam asked Mr. Salgo to upload his files to shared file on the Google drive and Mr. Salgo agreed to do so.
- 2) **District's website and IT issues.** Director Flaws reported on the required updates to the website. President Elam discussed ongoing website updates. Director Flaws stated the website sections for the District's agendas and minutes are being reformatted.
- 3) **Streaming the Board meetings via YouTube or other services.** Doug Mains was live streaming the meeting and will archive the meeting on the website.
- 4) **District's historical records and records management.** Item not addressed.

E. Procurement Committee

- 1) **Request for Qualifications for a landscape architect.** Director Rew-Hunter has obtained Request for Qualifications ("RFQ") examples and requests a description of the scope of the work to be done. Director Rew-Hunter has created a draft RFQ. President Elam will send Director Rew-Hunter a scope of work for the Napa Pond project.

CONSENT ITEMS

9. **Review and approve minutes of October 19, 2022, regular meeting.** The Board discussed minor changes to the minutes. Director Handsel moved to approve the November 10, 2022, minutes as revised. President Elam seconded, and the motion carried 5-0.
10. **Discuss and consider the District's financial reports and payment of the District's bills and invoices.** Mr. Swanks presented the bills in the agenda packet, including an invoice from Aqua Permits LLC in the amount of \$457.60 for the City of Austin permit, and an invoice from LCRA (for raw water) in the amount of \$522.63. Director Flaws moved to pay the bills as presented totaling \$50,508. President Elam seconded, and the motion carried 5-0.


OTHER MATTERS

11. **Discuss, consider, and take action as necessary on an updated District Registration Form for submission.** Ms. Carlton described the TCEQ form to the Board. Director Flaws moved to approve the TCEQ registration form and for Ms. Carlton to sign and submit it. President Elam seconded, and the motion carried 5-0.
12. **Discuss and consider the gate to the Preserve and determine which subcommittee will address gate issues.** President Elam moved that the Board consider any gate issues under the Facilities Committee going forward. Director Flaws seconded, and the motion carried 5-0.

13. **Discuss and consider water storage issues.** Director Handsel would like more information on water storage and watering restrictions and for the District to be more involved on water storage issues. The Board discussed drought watering stages. No action taken.
14. **Discuss and consider the Boundary (Resaca) Fence project within the District, including contract issues with Johnson Services.** President Elam started a conversation with the HOA regarding the project but suggested creating a subcommittee for this once the project is underway. No action taken. Item to return for December meeting.
15. **Discuss and consider “Lake Pointe Boat Docks” and any further action on the project.** The Board discussed this above. No further discussion. No action taken. Item to return for December meeting.
16. **Discuss and consider the District’s five-year strategic plan.** Director Flaws stated this plan will be an ongoing discussion. No action taken. Item to return for December meeting.
17. **Receive General Counsel report, including, but not limited to, tax matters, pending contract issues, open records requests, litigation, and other legal issues, if any, and take action as needed.** Ms. Carlton discussed items as noted above. She updated the Board on the tax levy documents for each of the two taxing districts. No action taken.
18. **Discuss and consider items for future agendas.** The Board will update its resolution for agenda posting.
19. **Adjourn.** Director Flaws moved to adjourn at 10:26 p.m. President Elam seconded, and the motion carried 5-0.

EXECUTED this the 13 day of December 2022.





Jody Flaws, Secretary/Treasurer