

# LAKE POINTE MUNICIPAL UTILITY DISTRICT

## MINUTES OF A MEETING OF THE BOARD OF DIRECTORS

**April 14, 2022**

The Board of Directors of Lake Pointe Municipal Utility District (the “District”) met in person in a regular session on April 14, 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 7:03 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 Jody Flaws  
Director Terry Elam

Director Jason Rew-Hunter was absent. Also in attendance were William Swanks with TUMCO, Blake Foree and Josiah Longbons with Landscape Resources, and Grayson McDaniel with The Carlton Law Firm.

### **Item No. 6**

Item No. 6 was to discuss, consider, and take action as necessary regarding landscape services within the Lake Pointe subdivision.

First, Blake Foree, with Landscape Resources, presented a proposal for holly pruning, with one option priced at \$1,250, and one for \$1,600. The Board packet contained two additional proposals from Landscape Resources. One was for Asian Jasmine installation at Resaca Boulevard Island No. 1 for \$55,505. The second was for Asian Jasmine installation at Resaca Boulevard Island No. 2, for \$74,560. Mr. Longbons explained that they considered other option besides Asian Jasmine, as well, but they were more expensive, so Landscape Resources decided to propose Asian Jasmine. Mr. Longbons stated that Asian Jasmine was a better long-term option long term than xeriscaping or rock landscaping, though a combination could be estimated if the Board desired. Mr. Longbons explained that the existing Asian Jasmine in the neighborhood survived the freeze very well.

The Directors asked questions about the proposals. Director Elam asked if there could be an option with more spacing/less planting, as this would reduce cost. Mr. Longbons explained that the proposal was for 6” spacing, but 12” spacing could be considered, too. He explained that 6” spacing is as close as he would plant to the curb, so that motorists would not accidentally damage the new plant material. He also noted that Asian Jasmine does creep so the area would be filled in over time as the plant material grew.

Next, Director Handsel asked about how the proposals would affect and fit into the District’s budget. President Salgo explained that the proposal probably would eat into the District’s \$1.5M budget for the Resaca Boulevard fence project, on which about \$100,000 has been spent so far. President Salgo noted that if it seemed likely that Resaca Boulevard fence project extended into the next fiscal year, then the budget could accommodate both the landscaping proposals and the fence project. As an aside, he also noted that the fence at Napa Pond would also likely take from the \$1.5M budget allocated for the Resaca Boulevard fence project. Director Flaws mentioned that the budget may need to be reviewed at the next meeting because the Resaca Boulevard fence money in the budget makes it difficult to judge the District’s funding. President Salgo stated that it could be helpful to wait to decide on the proposals from Landscape Resources until after the Resaca Boulevard fence was discussed in Executive Session.

Continuing the discussion, Director Flaws asked Landscape Resources about the best times to plant Asian Jasmine. Mr. Longbons said that between May until July, at the latest, is ideal. He also explained that planting should be done prior to October because the plant material needs at least 60 days to grow in before the temperature drops to remain viable. Director Handsel said it might also be advisable to plant now because the price of the plant material might increase depending on what occurs. Director Elam asked if there would be changes in the price estimate depending on the timing of the project, asking about if the quotes might change based on mulch costs or other items other than the plant material. Mr. Longbons said there was not any increased cost as he had budgeted the item as inexpensive as it could be due to volume purchasing being the key to savings. The volume of plant material being bought will achieve the same price-saving either way.

Turning again to budget considerations, President Salgo said he thinks it ill-advised to build the Resaca Boulevard fence now because of price increases, as well as the Board needing to revise design documents. President Salgo stated that the fence project will likely not be completed until the next fiscal year. Due to this development, he believes it would not be a bad idea to spend some of the budget on District landscaping, as long as the HOA is willing to contribute to the landscaping along the Resaca Boulevard fence. Operations Manager Swanks stated that the tax revenue for next Fiscal Year would be coming in beginning October 1<sup>st</sup>. Director Elam suggested that it would be beneficial to discuss with the HOA.

Mr. Longbons suggested the possibility of planting Jasmine in Island No. 1 first, and wait on the second. He explained that the second island is adjacent to the Resaca Boulevard wall and could be affected by construction as the irrigation will be turned off, while the first island is not. The Directors discussed the phases of and staging areas for the Resaca Boulevard fence project and how they relate to the areas to potentially be planted.

Next, Director Flaws asked if the HOA should be consulted first depending on their opinion regarding the community aesthetics. Director Elam thought it would be worthwhile, but did not think

the HOA would be at odds with the planting. President Salgo stated that he was inclined to take the vote now.

Next, Director Handsel asked whether the District's budget could cover these proposal as well as the fence project at Napa Pond, and if not, which should take higher priority. President Salgo said that the District would be handling the Napa Pond fence project and that the ownership issue would be resolved, including the surveying and subdividing the front piece to the District (with an easement to the PUA) and the back piece to the PUA, fairly quickly. Director Flaws said he thought that the survey was not going to be necessary. President Salgo explained that the property could not be subdivided without it first being surveyed. President Salgo estimated that the PUA and District could likely complete the survey and accompanying documents in a month or so. President Salgo said that waiting on the Resaca Boulevard wall project sounds more sensible to him than putting the Napa Pond fence project on hold.

President Salgo asked if this proposal should be tabled until next month or if they should make a decision on the \$55,000 proposal for planting Asian Jasmine in Resaca Boulevard Island No. 1. Director Elam made a motion to accept the \$55,505 proposal for Island No. 1. Director Flaws seconded the motion. President Salgo called a voice vote, Director Elam, Director Flaws, and President Salgo voted aye, and the motion **PASSED**. Director Handsel explained that she abstained because she wanted to know more about the Napa fence project. Director Elam mentioned the Board would prioritize the landscaping project as the Napa fence project would take months to work on. Operations Manager Swanks asked for the budget code for the item, and it was confirmed as 71202.

Next, Director Handsel made a motion to accept Landscape Resources' proposal to prune the holly at the intersection of Sonoma and Bayton for \$1,600. President Salgo seconded the motion. President Salgo asked for questions and, hearing none, caused a voice vote. The motion **PASSED** unanimously.

Finally, the Board discussed the time the Landscape Resources crew would be doing the planting work on Island No. 1, as it could get hectic with traffic and school children in the area. Mr. Longbons said the logistics will require putting in a lot of mulch and compost and explained that Landscape Resources would start early in the day to avoid traffic as much as possible. Mr. Longbons said that finding a good spot to do the volume dumping of mulch or compost without creating a mess would overcome one of the biggest logistical obstacles. President Salgo confirmed that Landscape Resources will work with Operations Manager Swanks to coordinate the landscaping project and the volume dumping. Operations Manager Swanks asked if the HOA would have a problem with the dumping, and Director Elam said he would confer with the HOA on that issue.

The Directors thanked Mr. Longbons and Mr. Foree for their time.

The Board took **NO FURTHER 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"). Jason Bethke, the District's representative to the PUA, was not present. Director Flaws said he had forgotten to invite Mr. Bethke to the meeting. President Salgo noted, however, that Mr. Bethke knows when the District's meetings are. President

Salgo provided a brief update regarding the discussion he had with Jennifer Reichers about the proposal to do the survey for the Napa Pond fence project and suspects the PUA will approve it.

Next, the Directors and Operations Manager Swanks discussed the driveway at Napa Pond from the apron to the gate. The road would be on MUD property, but the PUA would drive its trucks on the road, so it has been unclear whether the District or the PUA should maintain the road. The Directors decided to discuss this further at the May meeting.

The Board took **NO 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 explained that Tom Hegemier with Doucet Engineers reviewed all of the ponds and sent a list of repairs the District needs to perform, but Operations Manager Swanks forgot to add it to the Board packet. He will bring the list to the May meeting.

Next, Operations Manager Swanks reported that he had repaired the boards at the swim dock.

Next, Operations Manager Swanks said that he had requested proposals from three vendors for the fence project at Napa Pond, but none sent proposals by the deadline, which was today. One said the work was too far away and he was not interested. Operations Manager Swanks said that one walked through the site with him and estimated the fence and gates would likely cost \$20,000-30,000.

Next, Director Elam said he hoped that everyone had seen and enjoyed the fountain at Lake Pointe Community Pond, which had been ordered and installed since the last meeting. He said that he has received positive feedback from the residents about the fountain. Director Elam further reported that Carlsbad Pond has been stocked with fish and Aquatic Features brought out additional live fish as a few in the first shipment were dead.

Finally, President Salgo asked Director Elam to discuss the pathway to the picnic benches on the east shore of the Community Pond with Operations Manager Swanks, as it is in disrepair. Operations Manager Swanks suggested that fixing the drainage first would likely be the priority.

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 Preserve.

The Directors discussed the silt fence along the maintenance road in the Preserve. President Salgo stated that he had asked for grass to be seeded there but the PUA did not do that, as the idea was that natural revegetation would take over in a two-year period. Regarding removing the silt fence, President Salgo stated that the District does not have much standing as to when and how to remove the fence because the matter is between the PUA and the county. He said that Ms. Reichers and Mr. Baze are considering options. The County may be surprised to discover that portions of the silt fence have already been removed along Bee Caves.

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

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

Item No. 4 was to review and approve minutes of the March 10, 2022, regular meeting. Director Elam requested that two quotes be revised on page 3 and pointed out that the subcommittee mentioned on page 5 should be “Facilities,” not “Park Maintenance.” He corrected the references to “Carlsbad Pond” on page 8 to be “Lake Pointe Community Pond.” Director Flaws made revisions, noting that on page 5, the first paragraph should mention Asian Jasmine. Page 7, third paragraph in Item 10 should say “Napa Pond” instead of “Napa Park,” and on page 3, the reference to posting on the District website should be revised to “save to the District network.”

The Directors requested that the revisions be made to the March 10 meeting minutes. Ms. McDaniel agreed to make the revisions. Ms. McDaniel asked if the subcommittees should be referenced specifically in the May meeting agenda and, if so, for the correct names of the subcommittees. The Directors confirmed that the subcommittees are the Facilities and Finance subcommittees.

Director Flaws moved to approve the March 10 minutes as revised. Director Elam 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. First, Operations Manager Swanks reported that the District has a treasury bill coming due at the end of February. Operations Manager Swanks explained that the District’s investments had \$500,000 rolling off in August and \$500,000 in October—he had originally tried to make all the items come due at the same time, but the Resaca Boulevard wall project necessitated the change. He suggested having the \$1M treasury bill come due in January. Director Flaws offered to work with Operations Manager Swanks during the month on this issue with the Finance subcommittee.

Next, President Salgo asked Operations Manager Swanks to describe what expenditures made up the “Subdivision Improvements” line item in the budget. Operations Manager Swanks explained that there were invoices from Jones Carter for \$46,000, the wall project had expenses including \$70,000 for the wall and \$40,000 for irrigation upgrades, about \$20,000 was for the swim-dock permit and \$15,500 for swim-platform repair. The total for the budget year was about \$121,929k, but the District received reimbursement from the HOA for some of the Jones|Carter expenditures and from the PUA for some of the LRI Bee Cave expenditures. The total expended in “Subdivision Improvements” after the reimbursements was \$100,230.

Next, President Salgo stated that the drainage pond budget was for \$20,690 and he hopes those expenditures are complete. Operations Manager Swanks said that after he gets an estimate he can get a better idea on the budget for the ponds.

Next, President Salgo said the District budgeted \$45,000 for general legal fees and the item was already at 96% of the budget with the District only midway through the year. He suggested that the line item be broken up into additional line items. President Salgo explained that “Legal” currently has four line items: “General,” “Special Projects,” “Rule Enforcement,” and “Johnson Services Company.” President Salgo asked Operations Manager Swanks to have four line items in the budget for “Legal” to reflect the four items in the legal bills. Operations Manager Swanks noted that there had not been election-related expenses yet or PUA expenses. Ms. McDaniel mentioned that the Director election will be in November 2022.

Next, President Salgo asked if Allensworth Law had itemized the \$5,770 bill included in the Board packet. Ms. McDaniel brought the itemized invoice, which had been sent to The Carlton Firm, and distributed it to the Directors to review. The invoice was only charges from February 2022. The Directors noted that the March bill would likely be substantial. Ms. McDaniel also confirmed that the May 7 “Special Projects” charge in the TCLF bill should have been “Rule Enforcement,” and will make that change.

President Salgo distributed the bill from Jones|Carter for \$8,290 that Director Rew-Hunter questioned in the February meeting with a markup from Jones|Carter describing the nature of the charges. The Directors reviewed the marked-up invoice. Operations Manager Swanks has the check for Jones|Carter, which The Directors already approved payment of the bill in March, and Operations Manager Swanks has the check for Jones|Carter, but the check was being held until the Directors received additional details on the items. President Salgo pointed out the current invoice from Quiddity Engineering, which is Jones|Carter’s new name, for two hours of work, which was for attending the March 28, 2022, special Board meeting.

Director Handsel made a motion to approve the bills, as amended with Allensworth’s itemized invoice and JonesCarter’s additional details. Director Elam seconded the motion. President Salgo asked for questions and, hearing none, called a voice vote and the motion **PASSED** unanimously.

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

### **Item No. 7**

Item No. 7 was to discuss, consider, and take action as necessary regarding Texas Disposal Systems (“TDS”). Director Flaws asked TDS for a proposal for to collect recycling in the District every week rather than every other week. TDS can collect recycling weekly with an extra charge of \$3.86 per month per home. The cost would increase to \$4.11 per month per home next year. The Directors noted that weekly pickup would likely increase recycling, as well.

Director Elam asked if the District would pay the increase, or if the District would be voting to pass this cost to the residents. Director Flaws said it would come from the residents and asked how best to gauge their interest in weekly collection for the additional fee. President Salgo suggested a poll through Nextdoor or on the District website, or including a post in the HOA newsletter, asking whether residents would want weekly pickups in exchange for paying an additional \$4 or \$5 per month per home.

Director Elam said he could include the file that Director Flaws created to the District website and link to it from the poll. Director Elam said he could coordinate resident outreach.

Director Handsel suggested mentioning that people can purchase a second bin in case the TDS weekly pickup does not pass with a majority.

Director Flaws said Mr. Prince from TDS said that the weekly pickup could be implemented beginning May 1<sup>st</sup> if desired. President Salgo asked for Director Elam and Director Flaws to report back at the May meeting.

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

### **Item No. 9**

Item No. 9 was to discuss, consider, and take action as necessary regarding the Resaca Boulevard Fence project within the Lake Pointe Subdivision.

President Salgo reported that the letter regarding potential termination had been sent to Johnson Services Company and SureTec Insurance through Allensworth Law and that the 20-day response deadline for Johnson Services Company and the surety to participate in a conference was running, and would expire on April 21. Neither Johnson Services Company nor SureTec has yet responded to the Board, Allensworth Law, or The Carlton Firm.

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 8:34 p.m., the Board retired to executive session, pursuant to Section 551.071 of the Texas Government Code, to discuss Johnson Services Company matters and ongoing or pending litigation involving the District with the District's attorney.

At 9:31 p.m., the Board returned from executive session. The Board took no action and made no motions while in Executive Session.

**Item No. 6**

The Board returned to this item. Director Flaws made a motion to put Johnson Services Company into default unless a satisfactory response was received before April 26. Director Elam 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. 7**

The Board returned to this item. The Board discussed the General and Closing Certificate regarding the PUA's bond issuance. President Salgo made a motion to approve and execute the General and Closing Certificate of the Lake Pointe Municipal Utility District for the PUA's bond issuance. Director Elam 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. 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 reported that the Finance subcommittee would provide oversight and information regarding District investments, the budget, and other finance-related concerns. Ms. McDaniel said she would include the Finance and Facilities subcommittees on future agendas.

Next, Director Handsel moved starting and heading a Preserve subcommittee. 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. 13**

Item No. 13 was to discuss, consider, and take action as necessary regarding the District's website. Director Flaws volunteered to update the website to reflect the information regarding weekly recycling pickup by Texas Disposal Systems, as previously discussed. Director Elam also plans to work with Director Flaws to create a QR code that links to the website to include on District signs.

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. 14**

Item No. 14 was items for future agendas. Director Elam suggested adding a report from Mr. Bethke's to the May meeting agenda. Director Handsel suggested adding an item regarding the District's relationship/coordination with the HOA. Operations Manager Swanks proposed adding an agenda item to discuss whether Zoom use should continue. Ms. McDaniel said she would make these additions.

Finally, in regard to coordination with the HOA, Director Flaws suggested that a District Director should attend an HOA meeting at least quarterly, and vice versa.

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

**Item No. 15**

Item No. 15 was adjournment. Director Flaws moved to adjourn the meeting. President Salgo seconded the motion. President Salgo called for a voice vote and the motion **PASSED** unanimously.

The meeting was adjourned at 9:48 p.m.

**PASSED, APPROVED, AND ADOPTED this 12 day of May 2022.**



  
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Jody Flaws, Secretary-Treasurer