

**LAKEWOOD VILLAGE TOWN COUNCIL**

**COUNCIL MEETING**

**APRIL 25, 2013**

**Council Members:**

Mike Schnittker, Mayor  
Dr. Mark Vargus, Mayor Pro-Tem  
Ken Guthrie  
Harold Wood  
Carl Menckhoff, M.D.  
Dave Getka

**Town Staff:**

Linda Asbell, Town Secretary  
W. Andrew Messer, Town Attorney

**REGULAR SESSION - 7:00 P.M.**

With a quorum of the Council Members present, Mayor Schnittker called the Town Council to order at 7:00 p.m. on Thursday, April 25, 2013, in the Council Chambers of the Lakewood Village Town Hall, 100 Highridge Drive, Lakewood Village, Texas.

**PLEDGE TO THE FLAG**

**(Agenda Item A)**

Mayor Schnittker led the pledge of allegiance

**VISITOR/CITIZENS FORUM:**

**(Agenda Item B)**

Stan Trimm, 416 Shady Oaks Lane, Little Elm, spoke about a neighbor parking on the lot owned by the Rocky Point water system. Mayor Schnittker explained the adjacent neighbor to the water system drives a wrecker through the drive to the water system and then parks on the grass between the water system and the residential lot. Mr. Trimm complained that permitting the parking on the grass makes Rocky Point look “trashy”. Mayor Schnittker reported that the town does not own the lot and both he and the water operator have looked at condition of the lot and drive and determined that the parking was not causing any damage. Mayor Pro-Tem Vargus explained that the town has no authority to regulate parking in the extra territorial jurisdiction. Mr. Trimm requested that the town put up a fence to prevent parking on the lot. Councilman Menckhoff reiterated that town does not own the property. Mr. Trimm stated that he would encourage his neighbors to park their vehicles on the lot also.

**CONSENT AGENDA:**

**(Agenda Item C)**

1. Minutes of the December 13, 2012 council meeting
2. Minutes of the February 14, 2013 council meeting
3. Minutes of the March 7, 2013 council meeting

**MOTION:** Upon a motion made by Councilman Getka and seconded by Councilman Guthrie the Council voted five (5) “ayes” and no (0) “nays” to the consent agenda items as presented. *The motion carried.*

**REGULAR AGENDA:**

**(Agenda Item D)**

Council considered item D.3. & D.4.

**Consideration of Challenge Partnership  
Agreement with USACE**

**(Agenda Item D.1)**

Town Secretary Linda Asbell reviewed the history of the possibility of the Town running and eventually owning the water system located at Camp Cherokee. Town Secretary Asbell reported on the status of the agreement and discussions with the United States Army Corps of Engineers.

Justin Berndt with USACE explained the Our Lands and Waters Foundation is a non-profit organization that through the USACE has leased Camp Cherokee. Mayor Pro-Tem Vargus clarified that the system will be run according to TCEQ regulations even though there is a uncertainty whether the State of Texas can regulate Federal Government water operations.

**MOTION:** Upon a motion made by Councilman Menckhoff and seconded by Councilman Wood the Council voted five (5) “ayes” and no (0) “nays” to approve the agreement for the operation of the well and water system at Camp Cherokee as discussed. *The motion carried.*

**Presentation of Community Propane  
Proposal by Independent Propane Company**

**(Agenda Item D.2)**

Jay McClung with Suburban Propane explained the benefit of payments to the Economic Development Corporation based on the number of customers. Mr. McClung reported that typical underground tank rental agreements have a 10 year buy-out and the customer is required to purchase their propane from that company during that time. Mr. McClung stated his company will require a 5 year contract. Suburban Propane will remit \$25.00 to the Economic

Development Committee for each customer signed. There was some discussion of using a community gas tank and a single distribution system for any new developments. There was also discussion about involving LandPlan in future discussions about a single distribution system.

Council considered item D.5.

**Consideration of Acceptance of Audit  
Findings by Kirk Evans of Evans, Pingleton,  
& Howard, PLLC**

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**(Agenda Item D.3)**

Mr. Kirk Evans, with Kirk, Evans, Pingleton, & Howard, PLLC, reviewed the finance report and stated the reports fairly represent the financial condition of the Town. Mr. Evans reviewed the revenues and expenditures of the town funds. Mr. Evans reported that the MDD was separated as a self-sustaining proprietary fund. Mayor Pro-Tem Vargus asked Mr. Evans to explain the review process. Mr. Evans stated that Robin and Belinda complete the field work, the work is finalized and compiled in the office. Tom Pingleton prepared the financial statements and Kirk Evans reviews the report. Mayor Pro-Tem Vargus reviewed the errors in the first draft of the audit report. Mayor Pro-Tem Vargus reported to the council on the meeting he had with Mr. Evans, Mr. Pingleton, and Mr. Howard and that Mr. Evans stated that he would fix the errors in the draft audit report and resubmit a corrected audit.

Mayor Pro-Tem Vargus asked if the software the audit firm uses incorporates formulas or if the numbers are hand-entered. Mr. Evans reported the software uses formulas. He said the statements are compiled in excel and the draft audit report contained a formula error. Mr. Evans stated their office should have caught the errors.

Mayor Pro-Tem Vargus directed Mr. Evan's attention to page 6 of the final audit report and pointed out an error where "\$23,000" is entered instead of "\$2,000". The sum of the numbers was also incorrect. Mayor Pro-Tem Vargus stated that it was impossible for a sum in that column to be inaccurate unless the person completing the spreadsheet was circumventing the formula and hand entering inaccurate numbers. Mayor Pro-Tem Vargus then reviewed the extensive errors found in the final audit report and stated that he has no faith in the credibility of either the audit report or the audit work performed. Mayor Pro-Tem Vargus stated he does not accept the audit report.

**MOTION:** Upon a motion made by Mayor Pro-Tem Vargus and seconded by Councilman Getka the Council voted five (5) "ayes" and no (0) "nays" to reject the audit findings of Evans, Pingleton & Howard, PLLC. *The motion carried.*

**Consideration of Audit Services**

**(Agenda Item D.4)**

Town Attorney Messer arrived at the dais at 7:24 p.m.

Mayor Pro-Tem Vargus reported that Mr. Kirk Evans bought out the audit firm last year. Prior to Mr. Evans purchasing the firm the Town had no problems with the previous audits performed. Mayor Pro-Tem Vargus requested that the town council fire the accounting firm. Town Attorney Messer reported that when a firm is fired there is a possibility the firm could bring suit for non-payment of services but it is unlikely in this case.

Mayor Pro-Tem Vargus reported that he spoke with the State Board of Accountancy that there should be three levels of review and it should have been impossible for the errors in the audit report to have been missed during the review process.

**MOTION:** Upon a motion made by Mayor Pro-Tem Vargus and seconded by Councilman Wood the Council voted five (5) “ayes” and no (0) “nays” to terminate the contract with Evans, Pingleton, & Howard, PLLC. *The motion carried.*

There was some discussion on authorizing Mayor Pro-Tem Vargus to engage an auditor

**MOTION:** Upon a motion made by Councilman Getka and seconded by Councilman Guthrie the Council voted five (5) “ayes” and no (0) “nays” to authorize Mayor Pro-Tem Vargus to engage the services of an accountant for the purposes of performing audit services for Fiscal Year 2011-2012 for a fee not to exceed \$15,000. *The motion carried.*

Council considered Agenda Item D.1

**Consideration of Asphalt Roadwork Proposals**

**(Agenda Item D.5)**

Council discussed the proposals received. Mayor Schnittker reported that both companies also build concrete roads and he has requested a proposal. Mayor Pro-Tem Vargus reviewed the process for borrowing funds for completing concrete roads. Mayor Pro-Tem Vargus reported that he believes the Town could begin concrete work as early as next spring. Mayor Schnittker stated that the proposals for roadwork are much higher than anticipated and he does not believe the council needs to spend this much money on asphalt repairs.

**MOTION:** *No motion was made*

**Consideration Appointments to the  
Municipal Development District Board of  
Directors**

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**(Agenda Item D.6)**

**MOTION:** Upon a motion made by Councilman Menckhoff and seconded by Councilman Guthrie the Council voted five (5) “ayes” and no (0) “nays” to reappoint Dan Tantalo, Kelly Rodocker, and Linda Asbell to the Municipal Development District Board of Directors. *The motion carried.*

**Consideration Appointments to the  
Economic Development Corporation Board  
of Directors**

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**(Agenda Item D.6)**

**MOTION:** Upon a motion made by Councilman Guthrie and seconded by Councilman Wood the Council voted five (5) “ayes” and no (0) “nays” to reappoint Linda Asbell, Carolyn Coleman, Dave Getka, and Clint Bushong to the Economic Development Corporation Board of Directors. *The motion carried.*

**EXECUTIVE SESSION:**

**(Agenda Item E)**

At 7:59 p.m. Mayor Schnittker recessed into executive session in compliance with:

1. Section 551.072, Texas Government Code to wit: To deliberate the purchase, exchange, lease or value of real property when deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.
2. Section 551.087, Texas Government Code to wit: to deliberate the offer of a financial or other incentive to a business prospect that the governmental body seeks to have locate, stay or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations.

**RECONVENE:**

**(Agenda Item F)**

Mayor Schnittker reconvened into the regular session at 9:00 p.m.

No action was taken.

**COUNCIL AND STAFF COMMENTS:**

**(Agenda Item G)**

Mayor Schnittker reported that a complaint has been received about a trailer he has parked on his property on the grass.

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**ADJOURNMENT**

**(Agenda Item H)**

**MOTION:** Upon a motion made by Mayor Pro-Tem Vargus and seconded by Councilman Menckhoff the Council voted five (5) “ayes” and no (0) “nays” to adjourn the Regular Session of the Lakewood Village Town Council at 9:06 p.m. on Thursday, April 25, 2013. The motion carried.

These minutes approved by the Lakewood Village Town Council on the 13th day of June 2013.

APPROVED

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Mike Schnittker  
MAYOR

ATTEST:

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Linda Asbell  
TOWN SECRETARY