

**MINUTES OF MEETING OF BOARD OF DIRECTORS OF
TANGLEWOOD FOREST LIMITED DISTRICT**

December 13, 2021

THE STATE OF TEXAS §
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COUNTY OF TRAVIS §

The Board of Directors of Tanglewood Forest Limited District met in regular session, open to the public, on December 13, 2021, at the Tanglewood Pool House, located at 9809 Curlew Drive, Austin, Texas, pursuant to notice duly given in accordance with law. A copy of the Certificate of Posting of the Notice is attached hereto as **Exhibit “A”**.

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

Ron Peterson	President	Present
Kat Dowling	Vice President	Present
Nikki Krueger	Treasurer / Secretary	Present
Robbie Castille	Director	Present
Josh Schauer	Director	Present

Also present for the meeting were: John Carlton of The Carlton Law Firm, P.L.L.C.; Trey Thompson of Pioneer Real Estate Services; Brody McKinley of Safeguard Aquatics; Charlie Mowen of TexaScapes; and residents of the District.

Director Peterson convened the meeting at 6:00 p.m. and took the agenda items in the order described below.

PUBLIC COMMENT

Item 1 - Receive communications from the public on items not listed on the posted agenda. No public comments.

Item 2 – Public Comment on Agenda Items. District resident, Brian Whelan, requested to provide public comment on agenda Item 11 when it is addressed by the Board.

CONSENT ITEMS

Item 3 – Consider approval of the November 17, 2021, regular meeting minutes. Director Dowling stated that Item 8(a) should indicate that she is a Director and not a Commissioner. Director Dowling further stated that this is the second time it has happened. Director Krueger moved to approve the November 17, 2021, regular meeting minutes with amendments. Director Castille seconded, and the motion passed 5-0. Director Peterson asked about the pictures attached to the November meeting minutes. Director Dowling mentioned the messages were regarding the last meeting, not today. Director Peterson stated that the District does not take care of fences. Director Castille stated that the vines and trees were hanging about nine feet into the roadway, and he would forward the pictures to the Directors.

REPORTS AND COMMITTEE MATTERS

Item 4 – Receive report from the Finance Committee and Treasurer and consider taking related action regarding the following:

Director Castille moved to open a Bill for Time account to be able to track Director time for all five Directors. Director Castille stated this would increase the transparency and accuracy of the Directors' time management. Director Peterson stated that Ms. Giles only wants per diems. Director Dowling mentioned that the Board only authorizes per diems for Committee and board meetings. Director Krueger said she does not want to use Bill for Time. There was no second to the motion.

- (a) **monthly financial report, payment of monthly bills and invoices and transfers of District funds:** Director Krueger presented the financial report, as provided in the packet. Director Krueger advised that a payment of \$983.42 is needed for an invoice received at the last minute from the Travis Central Appraisal District. She requested approval of the \$983.42 payment and also stated that a transfer in the amount of \$40,000 from the savings account to the operating account was needed. Director Dowling made a motion to approve payment of tax bills and invoices, including the tax appraisal payment of \$983.42, and the \$40,000 transfer. Director Castille seconded the motion, the motion passed 4-0-1, with Director Castille abstaining from the vote.
- (b) **amendments to budget for FY2021:** Director Krueger advised that there were no amendments to the FY2021 budget.
- (c) **amendments to budget for FY2022:** Director Krueger advised that there were no amendments to the FY2022 budget.
- (d) **Security issues including report from Travis County Sheriff's Office for 2022.** Matter was not addressed.
- (e) **Engagement of auditor to conduct FY2020 and FY2021 audit.** Director Krueger reviewed the audit proposal for Fiscal Year 2020 and 2021. Director Dowling asked about the cost increase. Director Krueger responded that the total cost was \$26,000. Director Krueger further mentioned that she preferred using the group that completed their most recent audit as they would be most familiar with the District's finances. Director Castille moved to approve the proposal for Fiscal Year 2020 and Fiscal Year 2021. Director Krueger seconded and the motion passed 5-0.

Item 5 – Receive report from the District's pool operations contractor and Pool Committee and consider taking related action, including matters related to: pool operator and pool maintenance/lifeguard contract; leak repairs; pool maintenance, general repairs and upkeep; operating schedule; pool programs; pool funding; lifeguards; and rates and fees for pool use. Brody McKinley of Safeguard Aquatics presented the pool report, as provided in the packet. Mr. McKinley advised that there was not much happening since it is the off-season. Safeguard Aquatics is performing routine maintenance and keeping an eye on the COVID-19 issues. Mr. McKinley stated that SafeGuard Aquatics' contract for 2022 was up for renewal. Director Peterson mentioned that the Mayor of Austin was having a news conference on December 17, 2021, and Director Peterson expects the same level of COVID-19 restrictions through 2022.

Director Schauer stated that the Pool Committee has reviewed the conceptual drawings and will return them to Mr. McKinley for cost estimates.

Item 6 – Receive report from the District’s landscape maintenance contractor and Park Committee and consider taking related action: Charlie Mowen of TexaScapes presented the landscape report detailing November activities, as provided in the packet. Mr. Mowen reported that the plant beds had been fertilized for the fall. Mr. Mowen further stated sink holes had been filled along the creek bed and seeds were added for erosion. Director Krueger asked Mr. Mowen about the stump grinding proposal that was submitted for \$970.50 due to Director Castille having questions about it in the November meeting. Director Castille moved to accept the proposal for stump removal; however, there was no second to the motion. Director Castille moved to make the Parks Committee meetings pre-announced open meetings for a “standing first Monday of every month” to encourage homeowner and public input into the expenditure and decision process of the District’s park system maintenance. There was no second. Director Peterson stated for clarification that the Parks Committee meetings are already open meetings. Director Dowling said that the meetings are open to the public and the public can contact any members for information on the date and times of the meetings. She mentioned that the meeting dates sometimes change due to the availability of vendors that are invited to the meetings. Director Dowling further stated that the Committee members are limited by their job schedules, as well.

- (a) **landscape maintenance contract, proposals and estimates for additional landscaping work, maintenance, repair, replacement and improvements to landscaping and landscape related facilities, irrigation systems, and tree trimming:** Matter was not addressed.
- (b) **consideration and approval of the 2021 Updated Parks and Rules.** Director Krueger stated that the Board has added a large group event policy regarding any event in the park needing to get Board approval, including vendors. The event information would have to be provided to the Board and not just the District manager. Director Castille asked how it will be enforced when a homeowner tries to have a party. Director Krueger moved to approve the Updated Park Rules and instate them effective immediately. Director Schauer seconded the motion and the motion passed 4-0-1 with Director Castille abstaining. Director Castille commented that the District cannot enforce the new rules per Chapter 54 requirements. He stated that the District is limited on when they can make rules effective. Director Castille continued, stating that the rule change would need to be posted twice in the local newspaper in consecutive weeks and then the Board would have to wait five days after the last newspaper posting for the rules to be effective. Mr. Carlton advised that Chapter 54 of the Water Code does not apply because the District is a limited district, operating under Chapter 49, and those requirements are not in the District’s partnership agreement. Mr. Carlton further stated that Water Code Chapter 54 rules apply to municipal utility districts, which Tanglewood Forest used to be; however, now that it is a limited district, those rules do not apply.

Item 7 – Receive report from District’s General Manager and consider taking related action, including matters related to: Mr. Thompson of Pioneer Real Estate Services presented the General Manager’s report, as provided in the packet. Director Peterson reported regarding the Curlew fence construction. Director Dowling asked if Linda Acuña has sent anything to the District. Director Peterson responded that she has not sent anything yet, but Ms. Acuña has been

in contact with Mr. Thompson. Director Peterson further stated that Ms. Acuña has also been involved with the City and the City has approved her project. Director Castille said that the District has missed the 30-day deadline to be able to stop her. Director Peterson mentioned he does not think that missing the deadline will be a problem as it is a duplex with no backyard. Director Peterson went on to state that when Ms. Acuña has renters with children, she feels it's unsafe and would be better protected with a fence.

Director Krueger reported on the holiday event and the status of items to be picked up for the event. She reminded Director Castille that he has hot cocoa duty and asked if everyone knows what is happening and what they may need. Mr. Mowen asked what time they needed to be at the park and Director Krueger stated they would be there by 6:00 p.m.

(a) **management services, management services contract, and related issues:** Matter was not addressed.

(b) **use, maintenance, repair, replacement and improvement of District property and facilities including, but not limited to, buildings, restrooms, electrical systems, lighting, and parking areas:** Director Castille made a motion to spend \$1,200 to purchase 2 cords of firewood to be distributed to homeowners during winter freezes. Director Castille said that it could be a good way to obtain good publicity and that they could set a limit of how many logs per household to make sure one household does not get more than another. Director Dowling asked Mr. Carlton to advise on the motion made. Mr. Carlton advised that giving away firewood is a gray area for the District as its main authority is to maintain the parks and handle Deed Restriction enforcement as per the Strategic Partnership Agreement. Mr. Carlton said he is not aware of what liability could arise if the District does it and cannot say that there is no risk. Mr. Carlton stated it would ultimately be up to the Board's discretion. Director Peterson mentioned he was not interested in the idea as it would be more pertinent to do when the emergency occurs and by then the places with firewood are already potentially sold out. The Board had given out water during the last freeze but Director Peterson does not want to get into the business of dealing with firewood. Director Schauer commented that the District has provided services like trash pick up in the past. Director Dowling stated that occurred when the City could not pick up trash and the Board was trying to prevent an overload of deed restrictions at the time. Director Krueger expressed concern that the firewood idea may not go over well if there is not enough for everyone during a storm. There was no second to the motion.

Director Dowling stated that estimate #693 from A-1 has been provided in the packet to address a tree branch that is hanging over the path and to remove it up to the fence line, including any branches around it, for \$675.00. Director Castille said that TexaScapes has already done that, but Director Dowling responded that TexaScapes does not handle that. He says that he believes that someone already cut a giant branch. Director Castille moved to approve the proposal in the amount of \$675, and if it has already been cut, it does not have to be done. Director Dowling seconded and the motion passed 5-0.

(c) **park and restroom cleaning and related services from cleaning contractor:** Director Krueger moved to approve the proposal regarding an additional cleaning

day for Renaissance Park. Director Castille seconded the motion, and the motion passed 5-0.

- (d) **pond cleaning and related services from Aquatic Features:** Matter was not addressed.
- (e) **report from General Manager and Deed Restriction Committee regarding enforcement of deed restrictions with the District:** Matter was addressed under Item 9, below.
- (f) **restrictive covenants review and notification process:** Matter was not addressed.

Item 8 – Receive report from the Communications Committee and consider action regarding the following:

- (a) **website content:** Director Dowling stated that social media management will be addressed when Mr. Thompson returns. Director Castille mentioned that the Holiday Event is on the Kocurek Elementary social media page. Director Dowling stated that Kocurek Elementary also received 55 flyers for the Holiday Event. Director Castille commented that the “email us” button on the Facebook page was still redirecting to the Horizon Management page.
- (b) **newsletter:** Director Dowling stated that the newsletter was sent out Friday evening for review by Director Dowling and Director Schauer. The newsletter is scheduled to be print and sent out this week.

Item 9 – Receive General Counsel report and consider taking related action regarding the following:

- (a) **pending contract issues, open records requests, and election matters:** Mr. Carlton stated there are no contract issues, no records requests, and no election matters to address.
- (b) **District’s process for legal action and legal action on deed restriction enforcement (including Tanglewood Forest Limited District v. Ninfa Yanez, Cause No. D-1-G N-19-007074 in the District Court of Travis County, Texas):** John Carlton of the Carlton Law Firm P.L.L.C., updated the board regarding the current demand letters and that most responses to the demand letters are going to Mr. Thompson.

Director Castille moved to non-suit all claims in the Yanez case and execute a Release of Lien/Abstract of Judgment. Mr. Carlton advised the Directors on the status of the lawsuit. Director Peterson asked Director Castille to repeat his motion. Director Peterson stated that the District still has the Lien on her house. Mr. Carlton advised that actions are being taken to secure the Lien, the Order has been issued, and efforts are being made to enforce the Order. Ms. Yanez has not been at the house to be served so alternative process means are being explored. Mr. Carlton stated that the Board would need to decide how it wants to proceed. He further stated that as long as the house is her homestead, the District cannot get any benefit from the house. Director Peterson wanted to clarify that the only way the District could obtain any money would be if the house was sold and Mr. Carlton agreed. Director Peterson seconded the motion. The motion failed 2-3, with Directors Castille and Peterson in favor and Directors Krueger,

Dowling, and Director Schauer opposing.

(c) other litigation matters: Mr. Carlton advised that there was nothing to report.

(d) legal investigations and other legal issues, if any: Mr. Carlton advised that there was nothing to report.

Item 10 – Receive report from Special Counsel regarding One Barton Place v. Horizon HOA Management, Lauren DeWilde et al., Cause No. D-1-GN-20-001451 in the District Court of Travis County, Texas. Mr. Carlton stated there was nothing to report.

OTHER MATTERS

Item 11 – Discuss and consider Board member duties, responsibilities, and actions. Director Peterson discussed the Holiday Party being approved at the last meeting and added that Director Castille posted to his social media that he will be holding his own event the next day. Director Peterson believes that Director Castille is dividing the District, again, with the actions Director Castille is taking. Director Peterson further stated that he does not think Director Castille has the District's best interests in mind. Director Peterson continued, stating that he believes that even though Director Castille is using his own money for the event, it is disruptive to the District and dividing the neighborhood. He further stated that Director Castille does not live in the District and bought his position through the election.

Director Krueger discussed Director Castille's continued activity in the parks despite instruction from the Board not to do so, including Director Castille killing a snake in the park, and/or relocating the snake. She stated that he also sectioned off railings at Lindshire Park that are in the report for Mr. Thompson to handle. Director Krueger continued, stating that Director Castille also trimmed brush without approval at Wilshire Park instead of contacting the Parks Committee. Director Castille also held the back-to-school bash with a bounce house that was plugged into the District electricity without any supervision. Director Krueger unplugged the bounce house and waited for Director Castille to arrive. She spoke with Director Castille about the rules and showed him how it was against the park rules. She further states that Director Castille plugged it back in and continued to hold the event despite the Board's wishes. Director Castille says that hating him and keeping him off the Committees will not make them better Directors. He also stated that recruiting people to hate him is not going to make anyone like the Directors more. He continued, stating that the Directors need to start getting in gear and helping people, and that is what he is there to do. Director Peterson commented on Director Castille's work in Tanglewood Park and homeowners' properties and asked that Director Castille not have his company's crew work on things that the Board has already contacted other people to work on. Director Krueger asked Mr. Carlton if there was a way to officially request Director Castille, and every business he is the owner of, to not do any work in the parks. Mr. Carlton stated that the District controls access to its properties and that the Board can take action to instruct unauthorized vendors to stay off the properties. Mr. Carlton's firm can send demand letters that tell people that they are not authorized to do any work in the District's parks, they are trespassing on District property, and the Firm can pursue those violations. The District can also establish rule changes. There is no formal process to penalize a Director by the Board as the voters do that at election time when they cast their votes. Mr. Carlton further states that in his opinion they could send out the demand letters to Valley View Landscaping and any vendors that trespass, and address the violations. Director Krueger made a motion to send demand letters to the vendors at Director Castille's event regarding trespassing.

Director Peterson seconded the motion, the motion passed 5-0. Director Castille made a motion to enroll all 5 directors in the University of Texas' Ethics Unwrapped class or Harvard's Ethical Leadership class. He suggested that incomplete or failing grades be grounds for immediate removal from an Officer position and from all Committee assignments. There was no second for the motion. Director Castille also made a motion to enroll all 5 directors in random 10-panel drug testing. He suggested that refusal or failing any test would be grounds for immediate removal from Officer positions and from all Committee assignments. There was no second for the motion.

Brian Whelan, a district resident, commented that after reviewing several local districts, he would like the Board to consider an addendum to the ethics policy regarding the use of the District's property. He asked that no Director, or employee of a Director, shall use or permit the use of any District equipment, supplies, or resources for personal gain or any purpose not related to the authorized functions of the District. Director Castille asked for this item to be added to the January agenda to be addressed, and Director Peterson agreed.

Item 12 – Discuss and consider time, date, and agenda items for the next Board meeting. The next regular meeting will be held on January 19, 2022, at 6:00 p.m.

Meeting adjourned at 6:40 p.m.

(seal)



Nikki Krueger, Secretary
Board of Directors

Date: January 19, 2022