

Minutes  
Lakeway Municipal Utility District  
Board of Directors Meeting  
February 20, 2009

The Board of Directors met in SPECIAL session at 9:30 a.m., 1097 Lohmans Crossing, Lakeway, Texas, with the following:

Directors Present:	Kay Andrews Jerry Hietpas Allan Hitchcock Tom Priddy Tom Rogers
Staff Present:	Richard W. Eason Margaret A. Cathey
Others Present:	Mike Willatt

AGENDA ITEMS

1. All actions necessary in response to the City of Lakeway's decision to seek legislation related to amending state annexation law, or other state law, applicable to municipal utility districts located within the City limits.

Citizens Participation. Elsa Hopkins stated that the agenda general statement regarding executive session was insufficient notice and will contact the Attorney General's office. Karen Bradshaw had no problem with the City's proposal, but why pay two lawyers on two sides to come to an agreement. She also wanted more transparency from the District by putting everything on the website. Mel Neese asked "why are we in this predicament"? He read from a prepared statement. At the City Council meeting the audience was taken back by the lack of tact from Tom Rogers' address to the City Council. Neese asked rhetorical questions from the City and of the District. Will changing the law actually tilt the field in favor of the City? How will this affect District employees, and will the City terminate the leaders and lose their vast knowledge? Of the District, he asked if the District could talk with the City and work this out and avoid the costs of the path we seem to be on. There are many questions for both sides.

Recessed into Closed Session at 9:38 a.m. pursuant to Texas Government Code:  
Sec. 551.071 – Consultation with Attorney  
Reconvened into Open Session at 9:59 a.m.

Rogers stated that the District has three options – agree to support the proposed legislation; oppose the proposed legislation; or do nothing. Hopkins stated that she heard Rogers mention a lawsuit at the last City Council meeting; Rogers denied mentioned anything like that. Neese asked if it was too late to consider appointing a committee of citizens to try and work this out. Mayor Swan commented that it would be too expensive to appoint a committee to do a study; the decision to move forward with the legislation was to create a "level playing field". Rogers said the field is tilted in the District's favor now, and if the law is changed, it tilts in favor of the City. So there will never be a level playing field. Swan said he has no objection to take the suggestion back to the City Council and ask for a redirection. Rogers asked Swan in a meeting earlier in the week why they didn't come to the District first, and Swan did not want to do it without

the law changed to have the ability to unilaterally take his committee's recommendation. They moved forward now because they didn't want to lose the window of opportunity with the legislature. Charles Edwards stated that he is a taxpayer on both sides and only one time in the City's history have they hired a lobbyist; only the taxpayers on both sides, and some of us are on both sides, will suffer. P. A. Penley commented that he did not find out about this proposal until three days ago and he is pretty involved with what is going on with both the City and the District. He wanted to know what's in it for the citizens; who gains; is there anything to gain? Rogers responded to Elsa Hopkins question by saying if the law was changed the City would form a committee, it is a forgone conclusion that they will decide the City should annex the District, and it would be done quickly. Swan stated that they did not want to move forward unless they felt sure that they had a reasonable chance with the legislature; they didn't want to waste taxpayer money on a study. Dave DeOme stated that if the legislation passes, that does not mean a rubber stamp for a takeover; all of us are objective people. The City has hired a very powerful attorney with lobbying resources. Frank Black passed along a statement from Dennis Brown – Dennis sees no advantage to the takeover. Frank then stated that he could see no reason to move ahead; we need to resolve everyone's questions to avoid this. Communication with the City has recently deteriorated. A study by impartial committee members is a good idea and might even be important enough to go before the voters of the community. Ike Herrick commented that this proposal smelled of a vendetta from the contentious zoning approval of the E-5 tank site. Citizens Participation was closed.

Staff Report. Eason became aware of the proposal last Friday after receiving the City's agenda. He commented that he had received the January agenda and this last agenda, but he did not receive notice of a special meeting on February 4<sup>th</sup>, wherein the City first authorized their attorney to move forward. He then summarized a statement of financial concerns (attached to these minutes). He then made some additional comments about Steve Jones' staff report dated February 17<sup>th</sup>. The City voted unanimous to pursue legislation and he restated the District's options. Priddy asked Eason how the District ranked with other District with the TCEQ. Eason stated that TCEQ uses us as an exemplary District and sends other Districts and TCEQ staff to us to see how it's done. Priddy asked about our rates. Our rates are the lowest in the area and he has a strong personal commitment to the District. Is there any advantage to being annexed – he doesn't know until a study can be done, but there is always room for improvement.

Andrews wants to understand more clearly on what the implications are. The City of Austin uses the water department as a revenue center. Eason went on to summarize the history of the District and how it was formed. What will the City do with the other six MUDs in the City limits?

Hietpas tried to envision the City's thinking; what is their long range effort; to acquire land; will there be compensation to the District's members; get all for nothing; will City get all that the District's members have paid for; would like to know what the long range plan is. Swan stated that the City has never discussed a water/wastewater long range plan and they don't plan a night-time raid on the District's assets. The City is not trying to make up cost revenue using the District; their motives are simple; it has been 18 years since the last consolidation study and they want to try it again. He wants to understand the rate calculations and how well the District works. Hietpas asked DeOme if he had ever discussed a long range plan for water/wastewater; the answer was no formal plan has been developed. Hietpas asked the City leaders why was the "trigger pulled in the dark of night" and why right now? The City stated earlier that a study would be costly; Hietpas countered that with volunteers conducting the study, it wouldn't cost anything. Swan again stated that the timing was being driven by the legislation opportunity windows and they thought they had a chance to get it passed.

Priddy read a statement full of questions. (attached to these minutes).

Hitchcock stated if the City would not only be taking over the income but also accruing the debt. How would they collect that debt from the customers; they propose to either spread it out over the entire City or charge a fee. All citizens of Lakeway need to be treated fairly. This takeover would not create a utility for the entire City.

Andrews thought there needed to be more communication on both sides. There needs to be a study done before any money is spent. This lack of communication can cause bad relationships. She asked if other cities take over MUDs only for the money. She wanted to work things out without the courts or spending money. Rogers stated that the City has already started the ball rolling.

Eason suggested that the District could resolve to block legislation and agree to withdraw our pursuit after the City withdrew the proposed legislation. Hitchcock made a motion take all actions necessary to oppose the City of Lakeway's decision to seek legislation related to amending state annexation law, or other state law, applicable to municipal utility districts located within the City limits. Priddy seconded the motion.

Swan was asked to call a special meeting of the City Council to reconsider the proposed legislation. He still thought that the legislation would make the playing field even. The City and the District can agree to a committee that represented both sides based on a study. Swan stated that legislation could be stopped at any time.

Andrews wanted to table the decision to oppose the legislation and stated that we needed to cooperate with the City and see what the Council does. Andrews made a motion to table the decision. Hietpas seconded the motion.

Rogers asked for a vote on the original motion to oppose the legislation – Priddy, Rogers and Hitchcock voted yes; Hietpas and Andrews voted no. Motion passed. Rogers asked for a vote on the motion to table. Priddy, Rogers and Hitchcock voted no; Hietpas and Andrews voted yes. Motion failed.

#### ADJOURNMENT

The meeting was adjourned without objection at 11:05 a.m.

Respectfully Submitted,

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Margaret A. Cathey, Assistant Secretary/Treasurer  
Board of Directors

Minutes approved on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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President, Board of Directors

ATTEST:

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Secretary, Board of Directors