

Glenlake Neighborhood Association General Meeting Minutes

Wednesday, October 21, 2015, Riverplace Country Club, 7:00 PM

Mike Reitzel called the meeting to order. He thanked Tracy Sims for being treasurer and Bob Cadenhead, Eric Doris, John Alden, and Courtney Johnson for their past service.

Mike introduced Sheri Gallo, Austin District 10 Councilmember who has been in office 10 months. She spoke on STR code changes, ADU (granny flats) land use, affordability, and the Austin City budget. Text 2828 and enter District 10 to subscribe to her newsletter. She focused on why the code department was not functioning and adjustments to STR rules. 24 amendments to the STR code are being made. The code enforcement PACE team is now underway to enforce STR regulations. This is part of the zoning code modification. The Sheriff only enforces the noise code and Austin code enforcement will now enforce the new rules. It is a slow process.

Councilmember Gallo answers to questions from homeowners are below: Emma Long may require a bond to provide needed maintenance. Parks are making slow progress due to funding issues. She recognized Carol Lee who is on the citywide Parkland Committee to improve parks. *(Note: Carol is Sheri's appointee to the Parkland Special Events Task Force, which is tasked with making recommendations for preserving and enhancing our parkland (particularly Zilker, Auditorium Shores, and Festival Beach) for public use considering the demand for use by special events).*

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- The City does not enforce deed restrictions. So if a HOA has deed restrictions against STRs, the City will not enforce them.
- There is much concern over high energy and water bills. Rates went up last year, but will not go up in 2015. She said consumption was normal and to call for a city audit if you expect an irregularity.
- She said the city is under no threat to pull funding from its immigration policy. She does not support harboring criminals.
- The City charges us \$125 for a library card because we in the ETJ and do not vote on, or pay for, City bonds. Overall, paying for this library service is cheaper than the bonds.
- There is no action by City Council that she is aware of to repeal or allow resident's a vote on the bag ban.
- Traffic around us – there has been no new capacity in last 20 years and we need infrastructure. Mass transit is for downtown only.
- A second exit for Vandergriff is needed due to only one way in or out now.

Election of Board of Director Members

A quorum was established. Motions were made, seconded, and voted on to elect:

- Michael Reitzel for an additional 3 year term
- Austin Spencer an additional 2 years to replace Bob Cadenhead
- Linda Bailey for 3 years to replace Eric Doris
- Carol Lee to replace Courtney Johnson for 2 years
- John Busch to replace John Alden for 1 year

911 Drive, City Park Road Fire Station and ESD#4 status

Joe Babb, esq. Real Estate Attorney Joe Babb (hired by GNA) **report on the legal status of the 911 Blvd**

- His opinion is that the “911 Boulevard remains a dedicated public easement, which the public has a legally established right to use. ESD4 may not legally restrict public use of the roadway.” It was not dedicated by plat as usually done by subdivision developers, but by owner of property. A review of the history shows ESD4 acquired the property in 1994, in 1995 it had a common law dedication and then built 911 as a public road.
- The common law dedication requires four elements which were accomplished:
 1. A person competent to dedicate
 2. A public purpose served by the dedication
 3. An offer or tender of the dedication, and
 4. An acceptance of the offer or tender

There was a common law express street dedication May 25, 1995 for “street and roadway purposes”. “The June 2001 memorandum from ESD4 announced the roadway across the dedicated property as “legally a public access, open at all times and unrestricted” is a statement by the property owner of the public’s right to use the roadway”. “The public has accepted the offer by using the roadway for well over 10 years. Immediately upon beginning to use the roadway, the dedication became operative and ESD4 was divested of any right to remove the property from use as a public roadway.”

When asked about 911 maintenance, Kevin MacDonnell said that ESD4 maintained 911 Blvd from the time it was built until he left in 2011, and under Art Maple’s tenure in 2011-12, making repairs, improving erosion controls, trimming bushes, picking up trash, etc., and that ESD4 accepted the liability through an insurance policy. In a previous meeting with GNA, TNR said it would take over 911 if ESD4 does not and TNR will pave it into a standard roadway.

Asked if it matters if the road is classified as a driveway, Mr Babb said it doesn't matter if it's a driveway or a street, since it's a dedicated public right-of-way.

Linda Bailey on GNA ESD4 issues

Three issues with ESD4 were identified– **one** on allegations of misconduct and mismanagement in 2012/2013 of up to \$130k of our taxpayer monies (for alleged association with the ESD4 President) to market and rebrand the fire stations. Many do not believe the firemen/women need to be rebranded. They are excellent as is. Also legal expenses are high compared to other equivalent ESDs.

BTW, we are taxed at the maximum allowable rate of .1%. So say the county appraises your home at \$600k, you would pay \$600/year in taxes to ESD4. The mismanagement was approximately equivalent to one year of Glenlake ESD4 total taxes.

The **second** is the current discussions of **a contract for services** potentially between ESD4 with AFD or ESD12. If a merger/contract of any kind occurs, we want contractual agreement that our fire station (the one at the entrance to Glenlake) will endure. We have a right to know what ESD4 is negotiating to do with our tax monies and so far its been challenging to find out.

The third more imminent issue is the 911 Boulevard of which many neighbors have seen the emails, been to the Board meetings on Lamar Boulevard, signed the petition, or been involved in other ways. She reviewed the history of our attempts to communicate with ESD4 and their obfuscation.

In Mike's letter of September 22 to the ESD4 commissioners, he reiterated that the neighborhood wants 911 as a second access from Glenlake for fire safety and daily activity, and we desire 911 to be kept "as is", it states we have numerous documents showing we have the right-of-way and a petition with over 200 names (up to 235 names now, over 70% Glenlake membership and many surrounding neighborhoods) who are in support of keeping 911 open, as well as a poll of 60 people with all in favor of keeping it open except one.

Linda summarized: "we neighbors are aware we live in the wild-land/urban interface. How can fire commissioners plan to restrict our access? Place us under this uncertainty, And threaten our safety for over a year?"

Monday night, the commissioners informally said **they would not put up signs** – that's a good first step. Given they have passed three motions to erect signs, we need that verbal agreement in writing and would like a commitment tonight for a motion to be passed to that effect at their next board meeting. *(Note: the request for a commitment tonight for a motion was unfortunately ignored by Mr. Torgrimson in subsequent remarks).*

Hopefully now the ESD4 commissioner will tell us he would like to work through this problem. We would. It can easily be done by calling Mike.

Peter Torgrimson, president of ESD#4 Board of Fire Commissioners

He reported there is lots of activity for ESD4, because it's complicated. They are concerned about:

- No authorization for ESD4 to build roads
- Not concerned about pothole liability, but concerned about traffic accident liability

There is no plan now to close 911 because they have more important issues; Station 407 is well positioned to provide continued service and it is an unfounded rumor it will be closed.

The AFD contracts – where AFD would take over operations, but taxing authority would remain as is – have failed in the past probably due to labor concerns. ESD4 has a complicated interface with AFD.

He said in his opinion, they will look at an AFD merger first and then if it does not work out a merger with ESD12. It may take a year to negotiate an agreement with AFD. When asked if he would consider adding a requirement to keep station 407 he replied they have no plans to include it.

He said they looked into the 911 Boulevard issues because one neighbor brought it up in 2013.

He said legal expenses are so high because of irregularities by the Board and Chief. He did not say who was at fault. They are going after the misconduct money, and do not think the previous president received any of that money. Also, the 911 road is driving up legal expenses. Mr. Torgrimson said the monthly treasurer's reports are confusing and hard to understand.

Glenlake resident and former ESD4 President Kevin MacDonnell said when he left there was \$2.3 million in surplus in ESD4 and no audit deficiency. When Fuentes took over the Board, they did not follow bidding

or defined business processes. They are responsible for the cost overruns (not the Chief as he suggested) because their job is to approve the finances and monthly review the budget to actual. Kevin said he can't accept it was confusing.

One neighbor asked Kevin if he built 911 Drive using ESD4 funds, and Kevin said yes he did (*Note: later he said with board approval*).

When asked, Mr. Torgrimson agreed that the board gave the previous Chief a large raise right before the Chief quit due to accusations. He admitted significant cost over runs while he was the assistant treasurer and that they had to get a loan to pay bills and did not give a raise to firemen/women that year.

Asked if AFD will include in the contract talks to keep 407, he said AFD needs 407 and they must give equal or better services (*Note: this needs to be verified because it is a contract not an annexation*).

Mr. Torgrimson said citizen input and communication is limited. The commissioners do not dialogue during the citizen's time. Joe Babb said they could set up a discussion on the agenda. When prompted, Mr. Torgrimson said he would consider a citizens advisory board.

He was asked if he had considered another option – one of combining ES4 and 6 in the west, and ESD4 and 12 in the east. Using the closest geographic areas. He said that would be a funding problem.

When the possible merger of ESD4 with ESD12 was raised, Kevin Mac Donnell pointed out the long history of western Travis County tax dollars being siphoned off to eastern Travis County, and pointed out that 43% of all calls run by ESD4 in 2014-15 were run in ESD12, for which ESD12 paid \$50,000. Given the 85-90% fixed expenses of any ESD and the \$3,500,000 budget that year, that means ESD12 got 43% of all calls run using ESD4 tax dollars for \$50,000 and ESD4 tax-payers got 57% of the calls for \$3,450,000. The health & Safety Code 775 requires that mutual and automatic aid contracts provide mutual benefits to both ESDs who are parties to the contract. There was little or no benefit for ESD4, with a massive imbalance of ESD4 tax dollars spent in ESD12. When Kevin asked Mr. Togrison if he saw any problem with his math, Mr. Togrison said no, and stated this was a "typical imbalance" and that AFD ran all calls in one area of ESD4."

When asked what they are doing to prevent forest fires he said it's a big problem and directed the discussion to what homeowners can do under the Firewise recommendations. ESD4 provides a brush truck and home audits (free of charge).

When asked why the 911 road issue is so complicated and they are worrying about liability instead of our safety and are they hearing us? Mr. Torgrimson said the road is in limbo. He said the issue of who is responsible for the road is a good question.

Mike summarized and said our attorney Joe Babb will get more work if the ESD4 commissions take steps to close or limit access.

Other Business – Discussion of Halloween October 30th, 2015 by Austin Spencer

10/25/2015 Prepared by Linda Bailey and edited by John Busch