

**Westwood Landowners' Association
Board of Directors Meeting
January 10, 2019 Monthly Meeting Minutes
Magnolia, TX 77354**

Monthly Meeting: The Board of Directors of the Westwood Landowners' Association (WWLOA) convened in a meeting open to all Members of WWLOA at the WWLOA office at 7:00pm.

Board of Directors

Present: Pat Troy, President
Diana Maichetti, Treasurer
Mike Pidatella, Secretary

Quorum was present, 3/5

Absent: None

Open Positions: Vice President
Member-at-Large

Call to Order: President called the meeting to order at 7:00pm

- 1) The Board Members introduced themselves.
- 2) Consider and Approve Meeting Minutes:
 - a) The Secretary presented the following meeting minutes for approval:
 - 1) Minutes of November 8, 2018 Monthly Meeting
 - 2) Minutes of December 13, 2018 Quarterly Meeting

The Treasurer motioned to accept, the Secretary 2nd. The motioned passed unanimously.
The minutes were approved.

- 3) Financial Report :
 - a) The Treasurer stated that the report could not be presented since it has not yet been received from the CPA. The bank statement came in a little late preventing the report from being ready for this meeting.
 - b) The Treasurer stated that we have over \$94,000 in accounts receivable. With a total budget of \$364,000, this is a little rough.
 - i) The Secretary and Treasurer stated that it was higher than \$94,000, noting that the office staff made a huge effort, sending emails and reaching out to landowners with a balance due, collecting monies due to the WWLOA.
 - ii) The President stated that we probably will need to get our attorney involved with the collection of the remaining past due accounts.
 - iii) The Treasurer noted that if people are experiencing a hardship, they can contact the office and we will work with people to set-up a payment plan to help them get their past due

- amounts paid. If the attorney gets involved, the attorney's fees will be added to their accounts and they will be responsible for those charges also.
- iv) The President announced that if anyone knows anyone who needs help with paying their maintenance fees, let them know we will work with them to set-up monthly payments to help them get caught up. We would rather do this before they get a letter from our attorney.
 - v) The Treasurer noted that a high accounts receivable will most likely result in the need to increase maintenance fees because we need to replace this money in the budget.
 - vi) The President noted that Westwood does have one of the lowest maintenance fees around.
- c) The Treasurer also pointed out that while we do seek to recover attorney's fees when we pursue deed restrictions violations, the judge typically does not award us the full amount of our attorney's fees resulting in a cost incurred by the WWLOA.
- 4) Traffic Violations Report
- a) The Secretary reported the number of warnings and citations issued by the constables during traffic stops while patrolling Westwood:
 - i) October, 2018 – 35
 - ii) November, 2018 – 60
 - iii) January 2018 through November 2018 - 666
- 5) Report from Constables regarding events affecting Westwood:
- a) Make sure you are locking your cars. There have been more children out checking cars while they were out from school during the holidays.
 - b) There have been several vehicles stolen recently from some of the surrounding neighborhoods.
 - c) A resident shared that she has observed garbage trucks, construction workers and school buses speeding through the neighborhoods. The constable noted that she was not the only one that has talked to them about school busses and they will be following up on the issue with school busses.
- 6) Deed Restrictions Exploration Committee (DREC) Update
- a) The DREC met last Tuesday evening, 1/8/2018.
 - i) The process for how to bring about an amendment to the deed restrictions was presented by the Board Secretary.
 - ii) There is a list of items landowners have brought to the DREC for possible amendments. The DREC is continuing to receive request in emails. DREC email address is available on the WWLOA website.
 - iii) The current nuisance clause was reviewed and limitations as well as difficulty in enforcing much of it were discussed. Suggestions for a revised nuisance clause were gathered for the drafting of a revised nuisance clause.
 - iv) The notes from the meetings are being posted on the BLOG page on the WWLOA website.
- 7) Old Business:
- a) Board needs to fill two Director Positions
 - i) The President reported that we still have two vacant positions on the Board of Directors and if anyone would like to be on the Board please talk to use because we need to fill those two positions.

- ii) The Treasurer noted that recently she could not attend a meeting due to illness and while the meeting was held with the remaining two board members, no decisions could be made and nothing could be voted on with only two members present.
 - iii) A resident asked if the board had the capability to attend meetings by video if we were sick at home.
 - (1) The Treasurer stated that she was home with a temperature of 104 degrees and was too sick to participate remotely.
 - (2) The President stated that we need to fill these two positions; there is a lot to do. If we had a full five member board it is still a lot to do. That is why we rely on volunteers such as the drainage committee.
- b) Looking for additional ACC members
 - i) The President reported that we also need ACC members. We are down to three. We need two more ACC members.
 - (1) A resident asked what ACC was. The President responded, Architectural Control Committee.
 - ii) The President noted that those with construction experience or can read and understand plans would be helpful.
 - iii) Currently, meetings are on the first and third Thursdays at 9:00am each month. The meeting time is subject to changed based on who is on the committee and their availability.
 - iv) The President further stated that if the ACC gets below three members, a member must be appointed from the board and the board is already shorthanded.
- c) Drainage easement maintenance (not front ditches)
 - i) The President noted that during Drainage Committee and Monthly Board meetings, we get a lot of conversation about the front ditches. The front ditches are different than the drainage easements. Currently Westwood does not have the authority to go on the drainage easement to maintain them.
 - ii) The President stated that the ditches along the side of the roads are county's property and residents need to report issues and concerns with these ditches to the county. Also, landowners should contact the county if they need their ditch cleaned out or graded. The county has advised us that the WWLOA can not request this for individual landowners or for the neighborhood in general. Previously the county regularly came through the neighborhood and dug out the ditches. They stopped doing this because they received too many complaints from landowners that it ruined their landscaping and made it difficult to mow. People need to keep their fitches clear of pine needles, branches and other debris.
 - iii) The Secretary mentioned that information on contacting the county to have their ditch cleaned out and/or graded was sent out in an email, to those who have requested to be on the WWLOA email distribution, and is available on the WWLOA website.
 - iv) The Secretary suggested that residents may want to get together with their neighbors to have everyone on their street submit a request to the county to get their street done at one time.
 - v) The President noted that the WWLOA has several things going on with drainage easements (not the drainage ditches that belong to the county).
 - (1) Because 40+ years ago, Landcraft signed over the drainage easements to the county, Westwood does not have a right to go on the drainage easements.
 - (2) Just like the utility companies have the right to come on to the easements to maintain them, you can not stop them even though it is your property. However, the county has the right to maintain the drainage easements but they do not have a duty or the responsibility to maintain the drainage easements.

- (3) Even though the county has the right to maintain the drainage easements, they maintain that the county can not spend county money on private property even though it is an easement that they have a right to go on.
 - (4) The WWLOA is working with our attorney to figure out a way to get the right to maintain drainage easements returned back to the WWLOA.
 - (5) The WWLOA is working with our attorney to define the following process to grant the WWLOA permission to maintain the drainage easement and protect them from any liability claims. This would involve:
 - (a) Having a professional engineering study performed to define the required scope of work need to ensure proper drainage. The county performs these types of studies so we are working with the county to see if they will provide the studies. Having the county do the studies will save Westwood the expense of having a private engineering firm perform the studies.
 - (b) The WWLOA will need the landowners on each side of a drainage easement, along the entire length, to give the WWLOA permission to go onto their property to perform the required work along with a release of liability.
 - (6) The Secretary pointed out the drainage easements in each section as the blue lines on the maps hanging on the wall in the meeting room. The drainage easements get the water from the drainage ditches out of Westwood.
 - (7) The Treasurer noted that the middle of the blue lines is the property line. So half of the drainage easements are one property owner and half is another property owner.
- 8) New Business:
- a) Accepting applications for Courtesy Patrol Driver
 - i) The President stated that we are accepting application for Courtesy Patrol Driver.
- 9) Open Forum
- a) E. J. Smith, 803 Fairbanks Dr.
 - i) E. J. Smith stated that they have been here 22 years. During that time the drainage issue has always been at the top of the list. E. J. Smith mentioned that the President was familiar with a specific issue, on Fairbanks, that is the responsibility of the owner of a lot, a builder, J. J. Jackson. They had this discussion before. It is not going to do any good to go to the county. We have to get to J .J. Jackson. E. J. Smith further stated that he will leave that on the back burner and we can talk about it later.
 - ii) E. J. Smith expressed a concern about smoke from people burning trash. He stated that he understands that legally people are permitted to burn trash (leaves and pine needles and so forth) unless it presents a fire danger or health hazard. This has become a real problem in our subdivision in that, with the wet weather we had, smoke comes into people's homes and elderly people, people with COPD problems and people carrying oxygen bottles around are having trouble breathing. We need to give that some attention.
 - iii) E. J. Smith further stated that he has a concern with people setting of fireworks. He understands that people have a right to pop firecrackers. But is has gotten out of hand. Some of the fireworks are coming on to people's homes and way into their properties. They leave the residue in the street and other's driveways and yards. Those are problems we need to give some attention to.

- iv) The President stated that the drainage issue E. J. Smith was talking about is a drainage easement issue and as previously stated we are trying to work out a way to where Westwood can take care of the issues with the drainage easements.
 - v) The Secretary commented on the burning concern. He clarified that the county does allow the burning of yard waste not trash. Leaves, branches, pine needles, etc. are allowed to be burned. Only materials that grew on your property are permitted, by the county, to be burned.
 - vi) The Secretary stated that this is an item that was presented to the Deed Restrictions Exploration Committee for an amendment to the deed restrictions, to ban burning in Westwood, to be presented for approval by at least 51% of the landowners.
 - vii) The Treasurer noted that if a ban on burning becomes part of the deed restrictions, you can not call law enforcement to enforce it since it will only be a violation of Westwood's deed restrictions and not a violation of county or state law.
 - viii) The Secretary stated that at this time, no one has contacted the Deed Restrictions Exploration Committee regarding an amendment about fireworks. Everyone was reminded about contacting the Committee with their requests and that the Committee's email is available on the website and they can contact the office to get the Committee's email address.
- b) Gerald Thibodeaux, 5902 Weisinger Dr.
 - i) Gerald Thibodeaux asked the board if they were familiar with the big drain on 1488 that crosses Westwood North by the daycare and who is responsible to clean the drains.
 - ii) The President stated that, if it is in the ditch, it's the county's responsibility.
 - iii) Gerald Thibodeaux stated that the county told him it was the subdivision's responsibility and he took responsibility and cleaned them out himself. He removed landscape timbers, 4x4s, grass, and tree limbs. It was completely closed up and he had to unplug it to get the water to flow from the west side to the east side.
 - iv) The Secretary mentioned that if it is along 1488, it's TX DOT's responsibility.
 - v) The President stated that the county tells us it's Westwood's responsibility to, we just know better.
 - vi) The Treasurer stated that both the county attorney and the commissioner sat in this room and told us that the county has the right but they do not have the duty to clean them.
 - vii) The Secretary suggested he may want to attend Commissioners' Court to raise this issue.
 - viii) The President stated that it is either the County's or TX DOT's responsibility but he will go look at it.
 - ix) Gerald Thibodeaux stated that there is no culvert under the road where Weisinger meets Westwood North. He talked to the county and was told there is one a little ways down Weisinger. However, this is not sufficient for when the water from the west and the water from the east meet to drain fast enough.
 - x) The President said he would take a look at it. He also noted that the culvert system at Conroe Huffsmith and Weisinger also does not work well.
 - xi) The President reminded everyone to email the Drainage Committee with all issues that they observe and are aware of.
- c) Darin Coble, 8623 Miller Rd.
 - i) Darin Coble stated that they regularly have 2 -3 inches of water running over the street and onto their property and asked who he needs to contact about it.
 - ii) The Secretary stated that street flooding should be reported to the county.

- iii) Darin Coble asked when it is TXDOT.
 - iv) The President replied that Miller Road is the county.
 - v) The Treasurer replied that named roads are the county's responsibility and numbered roads, like 1488 and 2978 are TXDOT's responsibility.
 - vi) Darin Coble stated that they and neighbors regularly need to clean out debris from a drainage easement and the culvert running under the street.
 - vii) The President stated that reports of water flooding streets catches the county's attention more than talking about drainage culverts and ditches.
 - viii) The President again stated that the county has the right to maintain them but won't take the responsibility. The WWLOA is working with our attorney, the county and West Magnolia Parkway Improvement District (WMPID) to find a solution to these issues throughout the neighborhood. We need everyone to bring their concerns to the Drainage Committee so that we can be sure we have compiled a complete list.
- d) Jill Foxworth, 7302 Black Forest Dr.
- i) Jill Foxworth stated that they are experiencing a sever water issue between their house and their neighbor's house. It has not been dry since December.
 - ii) The standing water is causing a nuisance issue with mosquitos.
 - iii) She met with two representatives of Charlie Riley's office this morning at her house and walked the property to see the issues.
 - iv) It appears that when the water drains to the other side of the street it hits a section that is higher than the area where the water is draining from causing the water to pool in several locations.
 - v) Jill Foxworth stated that they have their house for sale and an offer fell through when the potential buyers saw the issue with standing water.
 - vi) Jill Foxworth said that the county representatives told her there was not a lot the county can do since it is Westwood's problem.
 - vii) The President stated that he has been out to their house and met with her husband to see if the easement between you and your neighbor was a plotted drainage easement. It is not a plotted drainage easement.
 - viii) The President stated that the neighborhood is experiencing many of these drainage issues because years ago the builders, in Westwood, did not design the drainage on the lots correctly so that the water drains between the lots to the front ditches. Then the county did not create many of the plotted drainage easements, or place culverts under the roads, correctly to ensure water flows from the front ditches out of the neighborhood. At one location on Sugarbush in section 4, the county put a road across a drainage easement with no culvert underneath. The water has nowhere to go. There is nothing Westwood can do about it.
 - ix) The president said that the WWLOA is looking to solutions to the overall drainage issues. We need to be careful with what we do because we will be spending your money. We have legal obligations to consider when Westwood money is spent to address issues specific to individual lots or streets and not Westwood wide.
 - x) Jill Foxworth asked if there have been any creative solutions suggested like putting in a retention pond.
 - xi) The President said that there is a big area located at one of the reserves that could be used to create a lake. He also stated that he is trying to find out if some of the utility easements behind houses could be established as drainage easements. Builders were supposed to design horseshoe shape drainage around your house so that water drained from around

- your hose out to the front ditch along the road. But a lot of them did not do that so the water goes to the back of your property where your utility easement is and there is nowhere for it to go.
- xii) The President stated what we are finding will require a lot of work, people to grant the WWLOA access and rights to drainage easements as well as a lot of legal fees.
 - xiii) Jill Foxworth suggested that we need to inform the residents of what is needed and that we need to increase the maintenance fees \$10 a year to pay for it.
 - xiv) The President stated that when we recently increased maintenance fees approximately \$15 there were a lot of people complaining at the meetings that it was going up.
 - xv) The President said that we are looking into the possibility of a one-time assessment but we are not sure how much we can count on that because there are people that have not paid their maintenance fees. If we do the one-time assessment and people don't pay it we won't collect the money needed.
 - xvi) The Treasurer stated that we are looking into creative solutions. We are working with WMPID to possibly have them implement, and possibly pay for, an area wide project to improve drainage.
 - xvii) The Secretary stated that we are working with our attorney to find out what we legally can do so we can work to solve the problems and legally protect Westwood.
 - xviii) The President said we will take all of the advice and help we can get. We need Board members and we need ACC members.
 - xix) The Treasurer stated that we have reached out to State and Federal officials for help. We have reached out to anybody that will listen to us.
 - xx) The Secretary noted that there are many agencies and players to consider. For example the drainage along Nickaburr Creek, where the map shows many houses that flooded, is controlled by the Army Corps of Engineers. Westwood can remove debris from the creek. The Drainage Committee did organize a work day for volunteers to clean it out and that did provide some improvement. However, Westwood or the county can not dig in that area. Digging can only be performed by the Army Corps of Engineers.
- e) Cindy Whitmarsh, 911 Douglas Fir DR.
- i) Cindy Whitmarsh said she has been a resident since July and like everyone else here, drainage is a big issue. She has already learned a lot about the lack of drainage in this community. She has gone to the Drainage Committee. She has shown up for meetings only to find out that they decided to not hold the meeting with no notice provided. She talked to the Drainage Committee members and told them she wanted to attend the last meeting. However, they did not inform her of the meeting date and time. She had county officials at her house for an hour and a half today having the same conversations. Her house has not flooded while she has lived there. She says her house gets like a castle with a moat around it. This has happened four times and her house has flooded in the past. Pine needles are a big issue. There are people in her area that are dumping pine needles in the ditches. She is the one out in the rain, in a total panic, pulling out pine needles so her house does not flood. She has also talked to the man over maintenance for all of Montgomery County for TXDOT. His name is David Jeffries. She believes she has got his attention a little bit. He indicated that they will be cleaning out where the water flows just east of the Landmark apartments on this side of 1488 and then go to the south side of 1488 and clean that out. She knows that this is just a temporary fix. He also indicated that he could dig down about a foot where it meets 1488 to give a little more room for the water. She has video of water in the north bound lane of 1488 high enough for cars to be hitting it and it backs up into her house. She

- and neighbors have been getting into the ditches by 1488, in the rain, to try and clean them out and TXDOT does not like hearing that. TXDOT has told her not to get in the ditch and she has told them her house is going to flood, do something about the problem.
- ii) The Secretary announced that the board member that was overseeing the Drainage Committee resigned a few months back. We are looking for a resource to step up and be on the board and oversee that committee.
 - iii) The President stated that Westwood has over 2000 lots with more than 400 of them being commercial. We have a lot of political power and we need to exercise it when it is time to vote for county officials.
- f) A resident suggested a fund be established for people to contribute for cost associated with resolving drainage issues.
 - i) The President acknowledged that it was a good idea and that we are also looking into a special assessment. The president stated that if the WWLOA gets the permission to access and maintain the drainage easements, the landowners should get something put in the deed restrictions requiring the WWLOA to maintain them in the future since this will not be a one-time thing and there should be something that ensures future boards continue to maintain them.
- 10) The Treasurer made a motion to adjourn, the Secretary 2nd. The motion passed unanimously. The President adjourned the meeting at 8:37pm.