

MINUTES OF MEETING  
VIERA EAST  
COMMUNITY DEVELOPMENT DISTRICT

An Emergency Meeting of the Board of Supervisors of the Viera East Community Development District was held on Monday, August 19, 2019 at 2:00 p.m. at the Faith Lutheran Church in the Multi-Purpose Room, 5550 Faith Drive, Viera, Florida.

Present and constituting a quorum were:

Paul McCarthy	Chairman
David Bedwell	Vice Chairman
William 'Bill' Oakley	Secretary
Jo Walsh	Treasurer
Melinda Thomsen	Assistant Secretary

Also present were:

Jason Showe	District Manager
Brett Renton	Shutts & Bowen
Bonnie Mitcheltree	Resident

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. McCarthy called the meeting to order at 2:00 p.m. All Supervisors were present.

**SECOND ORDER OF BUSINESS**

**Public Comment Period**

Mr. Showe: In accordance with the District's rules, we are holding this emergency meeting for the financial welfare of the District, considering the information we received on Friday. We posted the meeting on the website and a sign at the golf course. The advertisement in the newspaper won't be published until Wednesday, in accordance with our rules to place a notice in the newspaper at the conclusion of this meeting with the details, date, time, place, subject and outcome of today's meeting. You will also be required to ratify any actions taken today at your next Board meeting to put it on the public record. We just wanted to put that on the record for today's meeting.

Mr. McCarthy: Is there any public comment? Hearing none,

**THIRD ORDER OF BUSINESS**

**Consideration of Engagement Letter with  
Shutts & Bowen, LLP Regarding Pending  
Litigation**

Mr. Showe: We have Brett Renton who can discuss the agreement and where we are at. I will let him lead the discussion at this stage.

Mr. Renton: Thank you very much. You all received the engagement letter on this particular matter where we outlined different rates and the individuals associated with this particular litigation. I am available for any questions you may have. As we just received the complaint, we haven't done a full-blown analysis. I wouldn't advise talking about the ins and outs or discussion about that here today. In fact, once we are retained, I will request a shade session or private attorney/client session to occur at the next regularly scheduled Board meeting, assuming that you retain us. You have the engagement letter with our standard terms and conditions, monthly billing and how our relationship will proceed. Unfortunately, because this is litigation, it's not something we can say, "Here it is," because no attorney in the world can promise you what a judge will do. If they could, that would be an amazing outcome so we have to work within the means of following the schedules the court had to try to resolve or work through as quickly as we can and as efficiently as we can for you and your constituents.

Mr. McCarthy: So basically at this point, we just want to get a consensus about hiring this company. Is that correct?

Mr. Bedwell: We can't ask any questions about what's in here?

Mr. Showe: You can ask questions about the agreement. What he's stating is that you shouldn't ask questions about the ins and outs of the actual claim.

Mr. Bedwell: I know. It says that it is standard policy to obtain an advanced deposit. How much is that going to be?

Mr. Renton: Generally we look for a deposit. In this case, they waived it.

Mr. Bedwell: Thank you. That's all of my questions.

Mr. McCarthy: Does anyone else have any questions for Brett?

Mr. Oakley: I don't have one for Brett, but I have one for Jason. Is this the company that went through the original litigation with us as far as making sure that we were dotting all of the I's?

Mr. Showe: Yes. Shutts & Bowen has been involved in all processes of this bond.

Mr. Oakley: I just wanted that on the record. The other question is how are we paying for this? Will it come out of the Contingency Fund?

Mr. Showe: At this stage, we would be looking for the General Fund and depending on how high it goes, we will have to use Contingency Funds.

Mr. Bedwell: Okay, that's it.

Mr. McCarthy: Thank you. Jo?

Ms. Walsh: No.

Mr. McCarthy: Okay, so we can go around the room to get consensus.

Mr. Showe: We need a motion.

On MOTION by Ms. Walsh seconded by Mr. Oakley with all in favor retaining Shutts & Bowen, LLP for the pending litigation and approving their engagement letter was approved.

Mr. Renton: Thank you very much for retaining Shutts & Bowen for the litigation. Pursuant to Florida Statute 286.011(8), I'm advising the entity at this public meeting that we seek your advice and request a meeting to be held in private to discuss strategy or settlement negotiations concerning the litigation at the next Board meeting. I believe that is August 28<sup>th</sup>, at which point we will be able to close the room and have a discussion. While I say that it will be a closed room and we will have a discussion, a Court Reporter will be present who will take down verbatim whatever is said at that meeting. That transcript will become public at the conclusion of the litigation for anyone who wants after the litigation is dealt with, to look at it. So long as we understand that. At that meeting while we are on the record, I will make sure that everyone is aware of the specifics under the Florida Statute. These are the rules that we all have to live by in these attorney/client situations with a public Board.

Mr. Bedwell: When you say make public, what does that mean?

Mr. Renton: That means if somebody requests the transcript after the litigation is concluded.

Mr. Bedwell: We are not going to put it in the newspaper or on the website?

Mr. Showe: No, but it becomes an official part of the District's record, but only after the litigation is closed.

Mr. Oakley: As David said, are you going to put it on the website so everyone can read it?

Mr. Showe: I think minutes are required to be put on the website.

Mr. Renton: Minutes are required to be posted on the website; however, these are not minutes. This would be a separate document.

Mr. Showe: Someone would have to request it.

Mr. Renton: It will be mentioned in the minutes so if someone makes a public records request, they would be entitled to it.

Ms. Thomsen: At what point do you institute the shade session? Is it first thing or at the end of the meeting?

Mr. Renton: That is left to your Chair to decide since you have a normal Board meeting. My suggestion as to how other Boards have done this in the past is they usually do it at the end because you are going to exclude everybody from the room. If they had something they wanted to address with you at a Board meeting just for fairness, let them address that at the beginning and then we can exclude them and we will have an hour attorney/client session, which we are estimating the time to be for us to meet and talk through any questions, issues, strategies and settlement discussions. Then that will conclude and you will go back on the record. So, you would take any formal action that you need to because you are not allowed to take action at the attorney/client shade session. You will have to do that on the record. Anyone from the public is invited back into the room if they should still be present.

Ms. Walsh: Unfortunately, I've been through this before.

Mr. McCarthy: Are there any other questions?

Mr. Oakley: I think the other question I have is if a resident asks us about the status of the bond, where we are at or whether we are in litigation, what are we supposed to say? How are we supposed to handle that? Delicately?

Mr. Renton: Delicately would be a great word to describe it. The key is at this point, you have a litigation filed against you. So, there is pending litigation. That being said, you've retained counsel in order to deal with that and you are seeking guidance at your next Board meeting. That's what I would say going into the 28<sup>th</sup> and then we can address it from there.

Mr. Oakley: Alright.

Ms. Thomsen: You'll know much more by then as well?

Mr. Renton: We will have a much better conversation in an attorney/client setting where we can be a little bit more strategic.

Mr. Showe: They were just retained a few minutes ago so they haven't put a whole lot of effort into it yet and we literally received the complaint on Friday around Noon. So, it's been a pretty short turnaround.

Mr. McCarthy: There is a time and place for everything. So, let's abide by that. It's all public access once it's get done.

Mr. Renton: Just one more piece. Whatever is discussed at a shade session, cannot be repeated to ANYONE that was not in that session. If you should do so, you will be waiving that privilege, which has some very big consequences. We will talk about that more on the 28<sup>th</sup>. You aren't part of that right now, but it's a little bit of a different rule than perhaps you are used to in dealing with a public organization.

Ms. Walsh: The Sunshine Law of discussing between each other is still in effect.

Mr. Renton: Correct. Do not talk at all about this litigation, bonds or the other issues with each other.

Ms. Walsh: Just like you would anything else.

Mr. Renton: That could potentially, especially with litigation, be a big issue that they have a venue to challenge or bring up. So, it's essentially sensitive. Just pay an extra layer of attention to it.

Mr. McCarthy: There's an old adage. Never improve upon silence. Alright, is there anything else for Brett?

Mr. Bedwell: No.

Mr. Showe: We need a motion to approve a shade session for your next meeting.

On MOTION by Ms. Walsh seconded by Ms. Thomsen with all in favor scheduling a Shade Session for the August 28, 2019 Board meeting was approved.
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Ms. Thomsen: Will it be at 2:00 p.m.?

Mr. Showe: Yes, during the meeting. To make the deadline, we already advertised it so we will be in full compliance with the advertisement.

Ms. Thomsen: But is the meeting at 2:00 p.m.?

Mr. Showe: Correct. It won't be a separate meeting. It's held during your 2:00 p.m. meeting.

Ms. Thomsen: I understand. Thank you.

#### **FOURTH ORDER OF BUSINESS**

#### **Supervisor's Requests**

Mr. McCarthy: Jo?

Ms. Walsh: I don't have anything.

Mr. McCarthy: David?

Mr. Bedwell: Nothing.

Mr. McCarthy: Melinda?

Ms. Thomsen: Do we know when the golf course is going to reopen?

Mr. McCarthy: I was told by our Greens Superintendent that if we don't get rain tonight, it will probably be open.

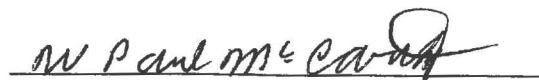
Ms. Thomsen: Thank you.

#### **FIFTH ORDER OF BUSINESS**

#### **Adjournment**

On MOTION by Ms. Walsh seconded by Ms. Thomsen with all in favor the meeting was adjourned.

  
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Secretary/Assistant Secretary

  
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Chairman/Vice Chairman