

**MINUTES OF EMERGENCY MEETING OF
THE CLEARWATER CAY
COMMUNITY DEVELOPMENT DISTRICT**

The emergency meeting of the Board of Supervisors of the Clearwater Cay Community Development District was held on Wednesday November 28, 2018 at 5:00 p.m. at the Quality Inn Central, 20162 U.S. 19, Clearwater, FL 33764

Present and constituting a quorum were:

Don Dwyer	Chair
Pat O'Malley	Vice Chair
Michael Herd	Treasurer
Alan Glidden	Assistant Secretary
Jeff Wilson	Assistant Secretary (late arrival)

Also present were:

Cal Teague	District Manager
Don Molloy, Esq	Attorney
Mark Lawson, Esq.	Attorney
Residents	

The following is a summary of the discussions and actions taken at the November 28, 2018 Clearwater Cay Community Development District meeting. In addition, there is an official transcript taken by a certified court reporter and the transcript is attached as a part of the approved minutes.

FIRST ORDER OF BUSINESS

Call to Order and Roll Call

The meeting was called to order and Mr. Dwyer called the roll. All were present for today's meeting with Supervisor Wilson arriving late to the meeting.

SECOND ORDER OF BUSINESS

**Declaration of Emergency Situation
and Need for Emergency Meeting**

Mr. Dwyer explained the circumstances necessitating this Emergency Meeting being as follows:

- The Board now finds itself in a major transition since three of the five Board members are new and since Fishkind & Associates abruptly resigned in October. State Law requires that a special district have a district manager. Additionally, there are several pending legal matters that the incoming Board considers an emergency as well. For these reasons, the Board decided to declare this an Emergency Meeting of the Clearwater Cay CDD.

On MOTION by Mr. Herd seconded by Mr. O'Malley with all in favor, acceptance of today's meeting as an Emergency Meeting was approved.

- Therefore, with the resignation of Fishkind & Associates, Mr. Dwyer recommended hiring Premier District Management and Cal Teague for their District Management Services.

On MOTION by Mr. Dwyer seconded by Mr. Herd with all in favor, Premier District Management with Calvin Teague as the District Manager was appointed to perform the District Management Services for the Clearwater Cay CDD.

THIRD ORDER OF BUSINESS

Introduction of Newly Elected Supervisors

- Mr. Dwyer then called for the election of officers and asked for nomination of the Chair.

On MOTION by Mr. O'Malley seconded by Mr. Herd with four in favor, Mr. Glidden voting Nay, Mr. Don Dwyer was selected as Chair.

- Chair Dwyer then nominated Mr. O'Malley as Vice Chair.

On MOTION by Chair Dwyer seconded by Mr. Herd with all in favor, Mr. O'Malley was selected as Vice Chair.

- Mr. Glidden was then nominated as Assistant Secretary.

On MOTION by Chair Dwyer seconded by Vice Chair O'Malley with all in favor, Mr. Glidden was selected as Assistant Secretary.

- Mr. Michael Herd was then nominated as Treasurer.

On MOTION by Chair Dwyer seconded by Supervisor Glidden with all in favor, Mr. Herd was approved as Treasurer.

- Cal Teague was then nominated as Secretary and Assistant Treasurer.

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, Cal Teague was approved as Secretary and Assistant Treasurer.

FOURTH ORDER OF BUSINESS

Consideration of Contract for District Management Services

The District Manager then asked as a part of the proposal for the District Attorney and Chair to negotiate the Premier District Management Contract.

On MOTION by Mr. O'Malley seconded by Mr. Herd with all in favor, the Proposal for District Management Services was approved.

Mr. Dwyer then set forth that the Chair of the District will run the Board meetings going forward and that the District Manager and District Counsel may interrupt the Chair at any time during the proceedings regarding procedure and the implementation and proper aspect of Florida Law. At this point, Mr. Dwyer and Mr. O'Malley presented their Oaths of Office, which had been submitted to the State to the District Manager.

FIFTH ORDER OF BUSINESS

Reorganization of the Board

A. Resolution 2019-04

Resolution 2019-04 was presented.

On MOTION by Chair Dwyer seconded by Vice Chair Glidden with all in favor, Resolution 2019-04 ratifying the officers of the Clearwater Cay CDD Board of Supervisors was approved.

SIXTH ORDER OF BUSINESS

**Consideration of Minutes of the
November 14, 2018 Meeting**

The record is to reflect that even after request, Fishkind & Associates failed to provide the minutes of the Board meeting held on November 14, 2018. As a result, the minutes cannot be approved for that meeting.

SEVENTH ORDER OF BUSINESS

Items for Action

A. Resolution 2019-05 Designating Checking Account Signing Authority
Resolution 2019-05 was presented.

On MOTION by Chair Dwyer seconded by Vice Chair O'Malley with all in favor, Resolution 2019-05 was approved as presented.

B. Appointment of Registered Agent for District
Resolution 2019-06 was presented appointing Mr. Molloy as the registered agent for the District.

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, Resolution 2019-06 was approved as presented.

C. Appointment of Independent Bond Counsel

Chair Dwyer nominated Mark G. Lawson as independent bond counsel to review the latest assessment without any bias. Attorney Lawson then introduced himself and asked that he instead be considered "special counsel" in lieu of independent bond counsel. He further advised that he has provided the District Manager with a proposal for the Boards' consideration and further requested that the Board direct and authorize your District Manager to serve as the contract manager - the contact point as well as your district counsel following which Chair Dwyer revised the motion that was on the table to read as follows:

On MOTION by Chair Dwyer seconded by Supervisor Herd with Supervisor Glidden voting Nay, the hiring of Mark G. Lawson as Special Counsel was approved as stated.

Counsel recommended hiring of Mr. Lawson for a not to exceed amount with District Manager Teague being given the authority to negotiate such.

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, directing and authorizing the District Manager in conjunction with recommendations of the Chair to negotiate the work order with the special counsel in an amount not to exceed \$10,000 for this particular workorder.

Extensive discussion ensued, which has already been made part of the official transcript. Mr. Wilson, the fifth member of the Board arrived at this point.

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, authorizing the emergency transfer of records of any kind from Fishkind & Associates to Premier District Management was approved which allows the District to move forward and comply with Florida Law.

On MOTION by Chair Dwyer seconded by Vice Chair O'Malley with all in favor, to have Supervisor Glidden arrange with Premier District Management to immediately transfer the documents stored in his garage to another local location as required by law.

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, the Board approved recognizing the emergency of addressing a variety of issues related to the pending litigation between the District and the community of Grand Venezia.

On MOTION by Chair Dwyer seconded by Vice Chair O'Malley with all in favor, the Board approved Gray Robinson standing down immediately on all pending litigation, specifically cancel the hearing scheduled for December 3 and all subsequent hearings related to the Grand Venezia lawsuit, which is deemed an emergency because the incoming Board, new legal counsel and the new district manager have not had an opportunity to become familiar with the pending litigation to determine the financial consequences of all pending

motions and hearings and that new litigation counsel will advise the Board accordingly.

- An extensive interchange of discussion on these issues was held and are included in an official transcript taken by a court reporter. Speakers on this topic includes the following:
 - Mr. Barnes spoke at tonight's meeting explaining his opinion regarding the scheduling of the meeting of the 28th.
 - Mr. Tsinokas, on behalf of his client, Oppenheimer, also spoke during tonight's meeting, same of which has also been made part of the official transcript.
 - Mr. Perko spoke at today's meeting and is also a part of the official transcript. With there being no further question or discussion, Chair Dwyer closed the audience comments.

On MOTION by Chair Dwyer seconded by Supervisor Herd with three in favor and Supervisors Glidden and Wilson voting Nay, the immediate release for cause of the firm Gray Robinson, specifically *Thomas Cloud, Robert Johnson and David Smith* from their duties in District litigation and District Counsel for the Clearwater Cay Community Development District was approved.

On MOTION by Chair Dwyer seconded by Vice Chair O'Malley with three in favor, two voting Nay, Dan Malloy's appointment as interim District counsel and very limited interim litigation counsel pending written contract/work order was approved.

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, the Board approved recognizing the emergency of addressing a variety of issues related to the pending litigation between the District and the community of Grand Venezia.

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, to waiving of the privilege previously asserted by the joint defense agreement was deemed an emergency due to pending litigation between the District and the community of Grand Venezia because the asserted privilege has not been viewed, reviewed or understood by the incoming Board, new legal counsel and the new district manager was approved.

On MOTION by Chair Dwyer seconded by Vice Chair O'Malley with all in favor, the Board approved that Attorney Malloy immediately review the joint defense agreement and if deemed legal, to invalidate said agreement immediately as well.

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, to hold in abeyance all current legal actions pending the hiring of new litigation counsel for full review of the lawsuit and outstanding motions, which is again deemed an emergency because the incoming Board has not had the opportunity or the ability to understand the scope and financial impact of the litigation related to the pending lawsuit between the District and Grand Venezia.

On MOTION by Chair Dwyer seconded by Vice Chair O'Malley with all in favor, it was approved that legal counsel be given the authority to review transcripts of the shade meetings that have been held since 2015 regarding the district litigation and should counsel find that those shade meetings can be made public, then they should be made available.

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, deeming it an emergency to address the District's legal requirement for an annual independent financial audit was approved.

D. Draft FY 2017 Audit for Acceptance

The FY 2017 Draft Audit was presented.

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, the FY 2017 Draft Audit was approved, and the District Manager will work with the auditor to provide the

needed financial information in order that the District can comply with the State's requirement for the independent annual audit.

E. Grau FY 2018 Audit Engagement Letter

Proposal for the FY 2018 Annual Independent Audit was presented.

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, the FY 2018 Audit Engagement Letter was approved.

On MOTION by Chair Dwyer seconded by Vice Chair O'Malley with all in favor, deeming it an emergency to prohibit any District expenses until the treasurer and district manager have received, reviewed and approved all outstanding expenditures.

On MOTION by Chair Dwyer seconded by Vice Chair O'Malley with all in favor, informing Fishkind & Associates that they are prohibited from making disbursements of any type including the signing of any checks on behalf of the District effective immediately was approved. The district manager and treasurer will authorize such payments and disbursements after a full review of any outstanding debts.

Mr. Keith Fendrick was present for today's meeting whose comments are already part of the official transcript.

On MOTION by Chair Dwyer seconded by Supervisor Herd with two voting Nay, recognizing it an emergency to address the Boards' collective concerns that the latest assessments sent to Pinellas County Tax Collector may be in error and in violation of Florida law was approved.

F. Items to be Presented Regarding Transition of New Board of Supervisors

The District Manager reported that several items were in the packet needing the Boards' attention such as contact information, etc. asking that all the information is returned to the office as soon as possible.

FIFTEENTH ORDER OF BUSINESS

Supervisor Requests and/or Audience Comments

Chair Dwyer went on to address this item and how audience comments will be handled going forward, which is part of the official permanent transcript. All further comments can be viewed as part of the official transcript as well.

SIXTEENTH ORDER OF BUSINESS

Adjournment

There being no further Orders of Business, and

On MOTION by Chair Dwyer seconded by Supervisor Herd with all in favor, the November 28, 2018 meeting was adjourned at 6:17 p.m.
--


Secretary/Assistant Secretary


Chair/Vice Chair