

# **University Park Recreation District**

**Consideration of Minutes of the  
January 11, 2019  
Board of Supervisors'  
Continued Meeting**

**MINUTES OF MEETING**

**UNIVERSITY PARK RECREATION DISTRICT  
CONTINUED BOARD OF SUPERVISORS' MEETING**

**Friday, January 11, 2019 at 8:00 am.**

**University Park Country Club, Varsity Club,  
7671 The Park Blvd.,  
University Park, Florida 34201**

Board Members present at roll call:

Lisabeth Bertsch	Board Member	
Bob Wood	Board Member	
Steve Ludmerer	Board Member	
Mike Smith	Board Member	
Nancy Kopnisky	Board Member	(joined @ 8:20am.)

Also, Present:

Mark Barnebey	Blalock Walters Law Firm	
Matthew J. Lapointe	Blalock Walters Law Firm	
Carol Harris	Fishkind & Associates, Inc.	
Hank Fishkind	Fishkind & Associates, Inc.	
Alan Mishlove	Fishkind & Associates, Inc.	(via phone)
Steve Davis		(via phone)
Bob Gang	Greenberg Traurig	(via phone)
Various Members of the General Public – See Attached		

**FIRST ORDER OF BUSINESS**

**Call to Order and Roll Call**

The meeting was called to order at 8:00 a.m. Those in attendance are outlined above.

Those in attendance stood for the Pledge of Allegiance.

**SECOND ORDER OF BUSINESS**

**Opening Comments- Chairman  
Wood**

Mr. Wood welcomed the audience to the meeting. He reminded everyone that this is a continued meeting from January 4, 2019 and the agenda item today is the discussion of the Purchase and Sale Agreement. He explained that there will be a

comment period and question and answer period at the end of the explanation of changes by Supervisors Mr. Smith and Mr. Ludmerer, that will be the time for anyone who has any questions or comments.

### **THIRD ORDER OF BUSINESS**

### **Consideration of Purchase and Sale Agreement of University park Country Club**

Mr. Wood explained that the entire facility is included in the Purchase and Sale Agreement. At the conclusion of the agreement the RD will have complete and total control and responsibility for all facilities and the sellers will have vacated any and all interests. He stated that the Deal, if the District moves forward, is scheduled to close on February 28, 2019. Between now and then the District will hold a workshop for all the residents so everyone understands all of the elements of the deal and the District will position itself for a Bond Referendum on February 7, 2019.

On February 7, 2019 there will be a vote of all owners of property that live in University park. The requirement would be that there would be 50% of the voters plus one in order to get an affirmative vote. If that is not achieved then there is no finance. Once funding is accomplished then the process would move forward and the Deal would be consummated on February 28, 2019.

He stated that the important elements of the deal include working capital and inventory. He explained that working capital includes all of the money that comes into the Club starting January 1, 2019. It stays within the deal and transfers with the purchase. He explained that the most revenue right months are January, February, and March. If the working capital was not included in the deal all of those funds would go back to the seller. He stated that Mr. Ludmerer pushed on that issue and there was a concession made that the working capital would come with the transaction.

He stated that an important consideration is the inventory which includes items from the pro shop, the bar, restaurant, gasoline, uniforms, etc. There is about \$175,000.00 worth of inventory. All of that will be transferred.

Mr. Smith spoke about preformation expenses. He explained the two-year history of the deal. There was an agreement made that Neal /Pasold would advance the cost even though the Planning Committee had total and complete responsibility and authority for hiring the professionals. There were \$225,000.00 of pre-cost that were paid by the sellers to the Planning Committee so that they could pay for the professionals those fees were agreed to be paid back to the sellers upon closing. Mr. Smith stated that the RD does not have the authority to go back and reimburse

because that was an action that was taken before the RD was formed. The RD agreed to take that \$225,000.00 and add it to the Purchase Agreement price so the price is increased by \$225,000.00 above the \$16,750,000.00 purchase price that was agreed to.

He explained that District Staff will have 45 days for its due diligence. District staff will have time to go back through the accounting, the legal documents, and have the ability to pull out of the deal if they see something that doesn't work, if they can't get funding, or if the referendum doesn't pass.

Mr. Smith discussed the issue about Honorary Memberships. Originally, the seller requested 14 Honorary Memberships; that has been reduced to 8 Honorary Memberships for a duration of 30 years, the memberships can only be transferred to family members. The 8 Honorary members will be identified at the time of closing. They have full use of all facilities. They pay for anything they consume, eat, buy, any guests they bring. He discussed the pros and cons about the Honorary memberships.

Mr. Smith discussed the Tract 7 property. It abuts two of the University Park communities. He explained that the Board negotiated a 2-year exclusive option to purchase Tract 7 for \$1,000,000.00, if they choose. The property was recently appraised at just under \$1,500,000.00. The RD has the ability to assign Tract 7 to the HOA and they can purchase it.

Mr. Smith brought up the concern about the sales office and if Neal would have any continuing efforts with UP Lifestyles. He stated that there is absolutely no involvement with the owners after this deal is consummated. The sales office and all facilities are transferred to the RD.

Mr. Smith stated that Neal created a new legal entity, UPCC, LLC. All the employees are assigned to UPCC, LLC so that it can be transferred to the RD at the time of completion. It is a mechanism to ensure that there is no interruption of payroll or benefits. The management of the Club will occur by the HOA. The RD would take UPCC, LLC and transfer it to the HOA. The HOA would have responsibility for the overall management because the RD does not want to have employees under the Sunshine law and within the RD. Mr. Smith stated that there was a question whether the RD needed to have a Management Company. He stated that the RD has a Management Company and they are working every single day and doing a good job. The RD will continue to be managed exactly the way they are and make incremental improvements. Neal/Pasold families will have no relationship other than if they have an Honorary Membership.

Mr. Smith mentioned the milestones that have occurred. He explained the history of the Planning Committee and University Park Recreation District. Some initial milestones included the formation of the Planning Committee, members of the Planning Committee negotiating a "hand shake agreement" for the ultimate purchase of the property recognizing that the final agreement would be developed by an RD Board. The next major issue was the formation of the Recreation District. The next milestone was the election of the RD Board. Now the RD Board has finalized negotiations with a few remaining milestones to be accomplished which include having a successful referendum and the issuance of bonds to complete the purchase. The Bond Referendum requires a vote of 50% plus one vote for authority to proceed with bonding. He stated that there are other ways to do it but the Board does not know of any other way to do it where you can disburse the cost across all of the properties over a period of 30 years. He stated that the Board must validate its ability to bond and before the RD can issue bonds they have to go to the court and prove that they have the right to do bonds and the other is that they have used a reasonable measure for how they are allocating the repayment of the cost of those bonds. The bond validation process typically takes 3 months. He stated that would take place in the Summer but the District may acquire short term financing and they want to get the deal closed and completed. He stated that the bonds would repay the short-term loan that was taken to do the purchase.

He stated that his personal investment advisor asked him where he wanted to invest and he said in the bonds for the community. He noted that homeowners may want to consider that option as well. He concluded his statement telling the Board that is the deal that the District has and if they have any questions they can be addressed. The Audience applauded.

Ms. Kopnisky joined the meeting in progress at 8:20 p.m.

Mr. Wood opened the floor for questions and comments. He requested that the audience adhere to the rules of the Board. Each individual has three minutes to ask a question or to make a comment. At the end of that time the Board will ask the speaker to sit down and the board will either respond or defer the question until the end when the Supervisors have discussed it in more detail. He requested that each person with a question or a comment come to the front so they can be heard in the back of the room. He stated that there will be one comment or question per person.

Ms. Debbie Bury asked why the Board would want to pass the cost of Tract 7 onto the homeowners and why not add it to the initial funding. Mr. Smith responded that the initials discussions when everything was taking place with the Planning Committee, there was ongoing dialog with Neal and Pasold about the acquisition of Tract 7. Neal and Pasold clearly said it was off the table and was not something

they wanted to include in the deal and they had interest in keeping that parcel for a long period of time. They were not interested in even negotiating around it so it was never a discussion point in the dialog. When Mr. Smith got involved, he started raising questions about it because it impacted two of the neighborhoods and also if it were developed commercially it could be problematic. Mr. Smith spoke to the Planning Committee early on recommending they look at Tract 7. The issue was brought back up on the table. There was discussion that it was worth \$2,500,000.00-\$3,000,000.00, the Planning Committee wanted an accurate assessment of its worth, and an appraisal shows it is worth \$1,463,000.00. Ms. Bury asked why the homeowners would want to assume that cost when in the end it would be part of the RD. Mr. Smith explained that it would only be part of the RD if it acquired it. He stated that the RD has the option to acquire it if they choose.

Ms. Bury stated that Lands Down Crescent was wetlands and is now a viable community. Mr. Smith replied the Board wanted to preserve the option if the District wants to do something Tract 7. Ms. Bury asked why not include it in the deal and just buy it and not wait two years. Mr. Smith replied that there is a possibility the District could do that but all of the financing the Board presented to residents was predicated on everything **but** Parcel 7 because it was never in the deal. It would be an expansion and would change the financial scenario. He stated the Board wants to say to each homeowner: the dollars that were discussed regarding what each community will be charged will stay exactly the same. He explained the reason the Board added the option for the HOA to purchase Tract 7 is based on his conversation with Mr. Whyte. There is an opportunity the HOA could buy the land and with the \$11,000,000.00 that the HOA has in reserves means that they are buying an asset that has more value than the cost and it might be a legitimate purchase for the HOA to secure.

Mr. Wood stated the Planning Committee did not see value in having Tract 7 as part of the deal, it became an issue when Lennox and Stanhope did not like the idea of this property abutting their homes and it became an issue the Board felt needed to be addressed. It was not part of the deal and the Board wanted to preserve that option in order to prevent anything bad from happening there. He stated that it is for two years but if the District is going to make a deal it will make a deal in a window of time that is acceptable to people. He noted that if the District gets to the end of the deal and it is going to expire, he suspects that the HOA will make that determination at that time and Lennox and Stanhope will have something to say about how that happens. He stated that it adds to the deal at a reasonable value at the Board's estimation and the Board has two years to make that decision and if the homeowners and the HOA decide they want it, they can purchase it.

A Board Member stated that he would do that in a heartbeat. Mr. Barnebey stated that it was not part of the original deal but the Board thought it was an important issue. He stated that the other part is that no one is happy with this issue and sometimes people are not happy with the outcomes and this was the best deal the Board could negotiate at this point. It is an option that the District did not have when the original contract was proposed.

A resident stated that the District would have turnover the instant the check was transferred to Mr. Neal. He asked if that turnover will occur on February 28, 2019. The Board said that it is the turnover of the Club and the Club assets. Turnover of the entire property resides with the HOA and may occur at some point. The resident stated he understood that at the instant of the check transfer the entire management structure of the University Park Association would transfer to the owners.

Mr. Barnebey stated that the District is only concerned with the County Club aspect of this and as for the Association, District Staff has not been involved and does not know where that stands. He does not think District staff knows the answer to that question. The resident stated that is part of Neal's position. Mr. Barnebey stated that it has nothing to do with the District at all and they cannot get involved in that and that is an issue the residents need to raise with the HOA.

Mr. Whyte stated that the promise from the seller is that they will do everything they can to expedite the turnover of the community to homeowner control immediately on closure of the sale of the Club. They would like that to happen the same day, however turnover of the community requires a certain process including electing a new Board of Directors for the HOA. He stated that the turnover will occur depending on the time scale that the residents want to go through that may push turnover back a few days or a few weeks later than the closure of the Club. He noted that the declarant has made the commitment to make the turnover at the same time and day and maybe the meeting after. He stated that the intention is to make the turnover at the same time. He stated that as soon as the HOA knows the date for closure, when the District has the money to pay for it, the HOA will start the process for announcing ballots for the candidature for the new HOA Board and go through that process. Once the new HOA Board is selected then the HOA can hold the turnover meeting. It is at the HOA turnover meeting that the new HOA Board will take power.

Mr. George Auxier asked questions regarding the financing aspects. He asked if the District will have in place a commitment for Bonds other than just a short-term loan that funds this and will the District be assured that it has a takeout or are there some other plans. Mr. Pat Thompson stated that the Bond issue will be approved on the election on February 7, 2019 and Dr. Fishkind has been contacting firms

who might be interested. Mr. Thompson reminded residents that the District must go through the validation process first that may take a few months. Then the District must have an order of Public Sale and there must be notices published in the newspaper. He stated that Dr. Fishkind noticed in the meeting on Friday that he already has three comfort letters which is an indication that there will be a bid from an Underwriting Firm. Mr. Thompson stated that this is a high-quality public fund and the Bond sale will proceed and there is a two-year window that Dr. Fishkind has arranged and within that two years the District will want to get it sold. He stated that he sees no reason to think that the bond sale will not close. He stated that for this to proceed the referendum would have to pass on February 7, 2019 and then the bonds are authorized.

A Resident asked if the bond issue is voted down. A Board Member answered that there will be no bonds and no funding. Mr. Wood attempted to answer Mr. George Auxier's question. Mr. Wood stated that the Board has the comfort levels and the District will have a commitment from the underwriters to sell a certain percentage of the Bonds and they believe that the District will have no trouble selling the Bonds. He stated that in order to do that the District has to get the referendum done that it has to be 50% plus one and it has to be validated by a Court and then it can be issued. There is nothing that anyone sees that would preclude the Bonds from being sold given the quality of the backup that exists. He noted that there is no guarantee but there is also no financing until the referendum passes.

A resident asked about the Bond issue. Mr. Wood stated that there is no financing if the referendum does not pass. The District must pass the referendum in order to exercise the short-term loan.

Mr. Ralph Ferber asked what the rush is to close and why is the District doing the short-term financing instead of just waiting for the Bonds and close at that time. Mr. Smith stated that things have gone on for two years and there is a growing frustration when it will come to closure. He stated that there is a question whether timing is the friend or enemy. He stated that the longer something takes the crazier the deal gets. He stated that the District could use the short-term financing as an opportunity to create leverage to get a better deal than the District would get if they were waiting for the Bonds. He stated that the people who own that property have a lot more leverage than the ones buying the property given the current considerations. They have been hanging around this deal for two years waiting to try to get the deal done. The Board reached a decision that if the District can get financing on a short-term basis early and get the deal closed the District can use that leverage which the District needed to get operating capital and working capital and inventory from the business and the option for parcel 7. Those issues would not have come on the table if the District did not have the ability to close early.

Mr. Wood added that the Board as a group made a commitment to the community about the cost on a per household basis. The longer this remains open, the more risk the community assumes from a Bond Market point of view. The District could close now with a clear understanding of the cost and it will be within the limits of what the Board advertised and committed to the homeowners. But, if the market turns at some point down the road, it is not in the Board's interest to come back to residents and tell them the price has increased. The Board wants to ensure it can stay within the bounds it presented to residents. He stated that it seemed reasonable that for the same cost the District could do short term financing that would allow the deal to close.

Mr. Chase had a question regarding the employees. He asked why the employees have to be laundered through an entity controlled by Mr. Neal and Mr. Varah. He stated that after reading the sales agreement and the Club Management Agreement, on the day of closing the employees will be transferred to UPCC LLC which are Mr. Neal and Mr. Varah and on the very same day of closing they will be transferred to the HOA and at closing 100% of the management interests of UPCC LLC will be transferred to University Park Community Association. He stated why the entity owned by Mr. Neal and Mr. Varah has to be involved in this transaction and why can't the employees be transferred directly and why will the Board sign a 30-year management agreement with UPCC LLC for an undisclosed annual fee. He also asked who at the end of the day of closing, will the employees work for.

Mr. Whyte stated that the employees of the Club and the employees of CMS were transferred into an entity which is entirely a payroll HR entity called UPCC LLC as of January 1, 2019 from their previous employer. Before closure of the deal, 100% of that entity, which is only an employment organization, will be transferred to the HOA. The HOA will own UPCC LLC 100%. That company will be managed by its General Manager, Laurie Evans and all the staff will report to her. That company will have a Management Agreement with the RD to provide at cost, those management services to run the Club. All the Club operating is in the RD. The UPCC LLC is only a Management company and only has payroll costs in it. UPCC LLC will also take over the present CMS Management Contract with the community and will provide and continue to provide the services the community gets from CMS now. There is a fixed fee of \$500,000.00 which is what the HOA budgeted for which pays and provides for the people who help run the community. He explained the LLC will have two clients, the HOA and the RD. it will have management contracts with both and charge fees to both. UPCC LLC will be owned 100% by the HOA and the Management will be under the General Manager. The HOA Board will not manage that company. Mr. Chase asked where this is stated in writing.

Mr. Barnebey stated that it was added to the Sales Agreement and it is in the sales agreement that the Board is considering today that it must be turned over at the time of closing. The District is working on short term financing but it has not been finalizing yet. He also noted that the Board has not approved the management agreement yet and that will be coming back to the Board. One the short term that organization will continue to operate the Club and there are restrictions on long term.

Mr. Wood explained that the HOA asked Neal and Pasold to form UPCC LLC as a mechanism to transfer employees. They have nothing to do with this post closing and the reason why the community wants this organization is because as a government entity the Recreation District does not want employees. Government Employees have rights and privileges that the RD and Board does not want to be responsible for and therefor forming UPCC LLC allows the RD to maintain the employees that the Club has and use the mechanism of the LLC to pay them. There is no profit margin to be gained from a management company because this is a zero-sum LLC.

Ms. Estes asked that with the agreement assigned will Neal or University Park Lifestyle continue to operate a business in UPCC. Mr. Wood responded they will have no involvement post close. The Board is discussing options for the sales office that do not include Neal and Pasold and do include current management, and other possible candidates but it will be independent and out of the control of Neal and Pasold at closing. Ms. Estes asked if the negotiations are open to anyone who wanted to operate a business of any sort in that office. Mr. Wood stated that is correct.

There were no other questions or comments. Mr. Wood opened the floor for Board Member comments

Mr. Smith stated that he is fully in favor and he acknowledged many people who have made huge contribution to the District. He stated that he thinks the Board has done everything they could to do what is in the best interest of the residents and this is a reasonable fair deal that gives the community what it really wants which is control of the community's destiny.

Ms. Bertsch thanked everyone in the audience and other Board Members for their work on this. She stated that the contract was originally drawn up a long time ago and within the last 6 months, since the establishment of the District there have been many discussions and taken all the comments and discussed them with the public and individually with District Counsel and resulting in the current contract that now includes items that were not there before. The District now has better financing and contract includes the turnover of the inventory. She stated that if this

District does not make this happen the community is in for a roller coaster ride regarding what happens to the community. She asked everyone to encourage their friends and neighbors to vote. She stated that new residents have been dismissing the emails and all the information. She asked the community to vote because it does not have another chance.

Mr. Ludmerer thanked everyone who participated including Mr. Smith who was the lead negotiator with the seller. He noted that he took the contract everyone saw last week and brought it back today with significant improvements for the benefit of the District. The District has made major advances and the seller has made significant concessions. He thinks that the District has a balance here that is right for the RD and the homeowners of University Park. He stated he supports it. He asked everyone to vote and vote positively to move forward.

Ms. Kopnisky thanked those involved. She thanked the other Supervisors for continuing this meeting until today and cleared the issues and made it clear to residents. She stated that Mr. Neal and Mr. Varah have been a part of this and she thanked them for their willingness to come back to the table and talk to this Board. She thanked the residents for their participation. She asked them to take the time to understand the information and vote positively.

Mr. Wood stated that at last week's meeting 12-13 issues were raised and almost all of them have been addressed in the redo of the contract. It is a contract that the Board collectively believes is in the best interest of the community. The Board hopes it can generate the level of support necessary to get 50% plus one in the affirmative. He thinks that the options beyond that are limited and this is a deal all of us can support and is in the best interest of all the residents of University Park

Mr. Wood requested a motion to approve the Purchase and Sale Agreement.

Mr. Barnebey stated that while this has been a 2-year process, this Board has only been in place for five months and they have been working hard playing catch up and getting the community to this point. He stated that this next step is important in order to move forward. He stated that he prepared this Purchase and Sale Agreement.

He stated that normally with a sales contract like this a survey would be done. He is not recommending that the District do a survey instead recommends the legal descriptions are verified because the cost of doing a survey is a significant cost. There have been no issues with boundary disputes. He stated that the motion will approve the Purchase and Sale Agreement and authorize the Chair to execute all necessary documents to effectuate due diligence and closing, including but not limited to review of the financial information from an accountant, an environmental

assessment, and review of the legal descriptions and other information survey related data by a licensed surveyor if necessary but it is not necessary to perform a survey and authorize the Chair to do any non-substantial changes to the contract.

Mr. Wood asked Mr. Barnebey to explain the risk of doing vs. not doing a survey. Mr. Barnebey stated that he thinks the chances of an issue are minimal but stated sometimes there is a piece of equipment or fence in the wrong place. He noted that Mr. Neal will work with the District on this.

On MOTION by Mr. Ludmerer, seconded by Ms. Kopnisky, with all in favor, the Board approved the Purchase and Sale Agreement as presented by District Counsel and authorized the Chair to execute all necessary documents effectuate due diligence and closing, including but not limited to review of the financial information from an accountant, an environmental assessment, and review of the legal descriptions and other information survey related data by a licensed surveyor if necessary but not to perform a survey of the property at this time due to the cost considerations. The Chair may authorize non-substantive changes to the contract to effectuate the purpose and intent of the Board.

**FOURTH ORDER OF BUSINESS**

**Other Business**

**Staff Reports**

1. **District Counsel-** No Report
2. **District Manager-** No Report

**FIFTH ORDER OF BUSINESS**

**Audience                      Comments,  
Supervisor Requests**

Mr. Wood thanked the audience for their support. He stated that the next piece of information they will receive is the packet for the referendum with the referendum vote scheduled for February 7, 2019.

**SIXTH ORDER OF BUSINESS**

**Adjournment**

There were no other questions or comments. Ms. Harris requested a motion to adjourn.

ON MOTION by Mr. Ludmerer, seconded by Ms. Bertsch, with all in favor, the Friday, January 11, 2019 Continued Board of Supervisors' Meeting for University Park was adjourned.

  
Secretary / Assistant Secretary

  
Chairman / Vice Chairman