

University Park Recreation District

**Consideration of Minutes of the
November 9, 2018
Board of Supervisors' Meeting**

MINUTES OF MEETING

**UNIVERSITY PARK RECREATION DISTRICT
SPECIAL ASSESSMENT WORKSHOP
Friday, November 09, 2018 at 2:00 p.m.
University Park Country Club, Lakeside Room,
7671 The Park Blvd.,
University Park, Florida 34201**

Board Members present at roll call:

Lisabeth Bertsch	Board Member
Nancy Kopnisky	Board Member
Steve Ludmerer	Board Member
Mike Smith	Board Member
Bob Wood	Board Member

Also, Present:

Hank Fishkind	Fishkind & Associates, Inc.
Carol Harris	Fishkind & Associates, Inc.
Mark Barnebey	Blalock Walters Law Firm
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 2:00 p.m. Those in attendance are outlined above.

The attendees were led in the Pledge of Allegiance.

SECOND ORDER OF BUSINESS

Opening Comments- Chairman Wood

Mr. Wood explained that District staff talked at the first meeting about Sunshine laws and those laws require that all matters related to District business which are to come before the District Board may only be discussed between Board Members in a public meeting or workshop. He explained that the Sunshine law is strictly

constructed in favor of open government by the courts of the State of Florida and there are limited exceptions to the requirements for public meetings. He stated that there is no exception in the law related to contract negotiations. He expressed that the Board is not allowed to meet individually or collectively between Board meetings. All of the work that the District gets done and the decisions that the Board makes must be made in a public forum, either a workshop or a public meeting. He noted that it is important to recognize that any discussions that the public has with individual Board Members represent their opinion and not a decision by the Board. He stated that District staff solicits their input, appreciates their input but urged the public to recognize that it is input and not discussed between Board Members between meetings. He reiterated that this is the forum in which the District gathers information individually and then collectively make decisions about the District. He stated that the Board has been elected to represent the public and want the public's input. He stated that there are a lot of perspectives and promised that the Board will listen. He noted that it is impossible to make everyone happy but it is possible to consider everyone's opinion which the Board has done and will continue to do. He stated that the Board would like to get as much input as they can from as many sources as they can to make the best decisions that they can make individually and collectively.

Mr. Wood stated that at the last meeting there were a number of administrative details that took place. The Board gathered information from the public on the payoff of the bonds that could be sold to finance the purchase of the Club to establish the Recreation District. He explained that the District must approve a sales contract in public or send it back for review. It is likely to happen in December. He noted that prior to it happening the public will all get a copy of the sales contract, audited financials from the Club, Engineering reports, and all the information that the Board has in order to consider for the acquisition of the Club. He stated that the referendum should be done in January and the public will have that information in plenty of time to analyze it and make their own decisions.

Mr. Wood stated that he wanted to touch on the Sunshine laws because based on some input that the Board has gotten that there is a perception that the Board had a lot of meetings and time to discuss these issues prior to coming before the public and that is not true, he stated, and it does not happen. He stated that the Board would like it to happen but none of the Board Members want to go to jail. He invited the other Supervisors to make comments as well.

Mr. Smith stated that he would like to support Mr. Wood. He stated that the last time he saw the Board members was at the last public meeting and stated that was also the last time the Board communicated or had any interaction or contact with each other. He wanted the public to be aware that the Board is very limited in the amount of communication they can have and the format in which they can have

it. He recommended that the Board have the venue and opportunity to interact back and forth to communicate in terms of issues important to individuals and as a collective so they have an exchange of information, not to make decisions, but to share information in terms of what the District is doing, who the Board is interacting with and what information the Board is gleaning from those in the community and before a recourse to each other. Mr. Smith stated that it must be done within the Sunshine laws. He stated that he spoke to Dr. Fishkind and Mr. Barnebey about it and it is clear that the Board can have an opportunity to have working sessions for dialog where no decisions are being reached but there would be an agenda to talk about issues that could be discussed at a future Board meeting where a decision could be reached in the future meeting. He stated that those workshop meetings will be recorded and will give the Board the ability to exchange information. He stated that he would like to set up that type of meeting prior to the December Board Meeting so that they have the opportunity to communicate. Dr. Fishkind stated that he was exactly right in his articulation of how it works.

Ms. Kopnisky stated that there was a meeting scheduled for Wednesday and she was extremely disappointed it was cancelled because it would have given the public the opportunity to express their view points. She stated that she is in agreement with what Mr. Smith just said. Other members of the Board are in agreement with what Mr. Wood and Mr. Smith said.

Mr. Ludmerer and Ms. Bertsch agreed with Mr. Smith and Ms. Kopnisky.

THIRD ORDER OF BUSINESS

Public Comment Period

Mr. Wood stated that each member of the public has three minutes to state their position or ask their question and District staff will come back at the end for questions regarding the agenda. Ms. Harris asked each member of the public speaking to sign their names so the transcriber can accurately reflect their names in the minutes.

Mr. Dowdell stated that one the meeting on September 17, 2018 the Board members were put on notice that they were not legally yet in office because they lacked the proper oaths, bonds, and unencumbered property required by Florida Statutes in the Constitution before entering their office. He stated that he was asked to forward to the Attorney the requirements for the oaths, funds and unencumbered property and he did that. He stated that without the oaths, funds, and unencumbered property the Board Members are not in office yet and are operating in fraud. He asked if they have yet their proper oaths, bonds, and unencumbered property as required by the Florida Statutes and the Florida Constitution. Mr. Barnebey stated that based on review of the information sent by

Mr. Dowdell, the Board has signed the appropriate oaths and are appropriately and duly in their position. Mr. Dowdell requested a certified copy of the Board's oaths, bonds, and unencumbered property according to the Statutes. Mr. Barnebey stated that the oaths that were signed were provided and there are no bonds required at this time by these particular officers according to the Statutes.

Mr. Chase stated that in the publication "Charting Our Future", questions and answers section 4 dated September 15, 2017, the Planning Group in an answer to a question about significant repairs and renovations stated that the Planning Group would develop repair cost estimates which will then be used in negotiations with the owners and the potential costs to correct these inadequacies will be part of the overall negotiations. Mr. Chase asked how much of an adjustment if any in the selling price has been obtained by either the Planning Group or the Recreation District Board as a result of these negotiations because the proposed bond issue includes \$3,000,000.00 for deferred maintenance which costs the residents will have to repay with interest. He asked why that is if the public was told that the deferred maintenance issue would be negotiated with the sellers and a price reduction obtained.

Mr. Chase stated that in the twenty-ninth order of business in the Board's Organizational meeting in September there was a discussion of a \$60,000.00 Bond Counsel fee to be paid only if a bond issue was actually proceeded with. He asked if the \$60,000.00 fee is in addition to the \$252,000.00 amount identified as costs of issuance on page 7 of the Master Assessment Methodology Report.

Mr. Chase stated that he wanted to commend Dr. Fishkind for the clear and accurate discussion of the various categories of home value that appears on the top of page 9 in the Master Assessment methodology Report. He stated that the discussion corrects the erroneous statement that he made at the Assessment Workshop that at Manatee County there is no difference Market Value and Assessed Value. Mr. Chase commented that the discussion in the Methodology Report might have been better if Dr. Fishkind had stated more clearly that Market Values were always be higher than assessed value or taxable value and that he also might have noted that the 2017 market Value figures that he is using for homes in University park. Mr. Wood stated that Mr. Chase's three minutes were up.

Mr. Wood stated that the answer to the first two questions will all be part of the contract as was indicated. He explained the negotiations will include repairs to buildings and facilities, all of which will be in the sales contract once it is negotiated and finished and will be distributed to all residents at the time of the completion. He stated that all residents will get a complete listing of the Bond Referendum costs when the Bond Referendum is reported to residents prior to it taking place in

January. Mr. Chase asked if any cost reduction was obtained. Mr. Wood explained that the contract is not finished and he cannot answer the question as specifically as he would like until the contract is finished and he can then tell him the answer to the question that he asked prematurely. Mr. Chase asked if the Board is negotiating a reduction. Mr. Wood stated that his time is up and he stated that he indicated that the contract is being negotiated and it is not finished and once finished the answer to his question will be clear. Mr. Wood stated the current price is \$16,750,000.00 and District staff will talk about the implications of his question at the time that the District has a contract to discuss. Mr. Wood stated that the Bond Referendum cost will all be outlined at the time of the referendum. He stated that Mr. Chase is asking the Board for information prior to that information being available.

Mr. Deuble stated that he wanted to show his appreciation to the members of the Board because it is a tremendous responsibility that they are representing the residents in this manner. He commented that one of the recent developments was the publication of the website for the Recreation District Board. He stated that one of the areas on the website gives the public the ability to click on comment or contact us and residents can send to the website, their comments or questions. He stated that sending the comment to the website sends it to all five Board Members instead of sending five different messages. He stated that when he looked at the website, he noticed that there was a budget posted on the website and he asked for it to be clarified as it did not appear to be a budget for all of the Country Club expenses and it appeared to be something much less than that. He stated that there was a \$135,000.00 item on it for a loan to initiate the process and he did not understand that.

Dr. Fishkind stated that on the website the comments come to District Management and they try to answer them as promptly as possible and they try to copy the Board Members to make sure that they see the traffic.

Dr. Fishkind stated that the budget that the Recreation District has is a "not to exceed" budget and the District is so new that they are trying to see what the real budget is going to actually be and they do not quite know those parameters yet. He stated that the budget is only for the recreation District Board and the Country Club operations will operate if and when the Recreation District acquires them, as an Enterprise and it will continue to run basically like it is run today with the same people and there will be some change in cost because the RD Assets that are now subject to property tax will not be subject to property tax will not be subject to property tax under governmental ownership so there will be some additional net operating income and District staff is working together on what that budget will look like. Mr. Deuble stated that he would be very interested in seeing that. Dr. Fishkind replied that is why District staff put it on the website.

Mr. Wood reminded the residents that at the moment the Recreation District has no source of revenue and the RD does not own the Club which will be a source of revenue going forward for the RD but today the District needs funds to operate and the budget represents the funds until the purchase is actually completed and the District has a source of revenue.

Mr. Frandsen stated that he would like to follow up on the comment and question he made at the regular meeting on who is able to vote on the Bond Referendum. He stated that he sent Dr. Fishkind three questions regarding that and he would like to know if there has been any progress made on those decisions. Mr. Wood stated that this is a complicated question with multiple answers. He explained that there are a number of ways in which the District can do this and District staff is in the process of evaluating which of those is the most practical and the one that will be least entangling for the District going forward. Mr. Frandsen stated that he hopes that when District staff makes that consideration they think about fairness and not practicality for the single owners who will have their votes diluted if District staff lets multiple renters in a property vote, who have no financial obligation on the Bond Referendum. Mr. Wood stated that it will be taken into consideration.

Mr. Barnebey stated that this matter will come up in the agenda later on and it that will be the appropriate time to discuss it. He stated it is a complicated question and there are some Supreme Court cases on this matter that indirectly effect the District.

Mr. Smith asked if the Board was making a decision on that today. Mr. Barnebey responded that it is up to the Board whether they make a decision on that today but he will be providing information and it will be discussed today.

Mr. Ziegler stated that yesterday there was posted on the website, assessment values on individual addresses in the community and asked "is that was correct?". Dr. Fishkind stated that he believes that was posted with the Special Assessment Report and it was available well before yesterday. Mr. Ziegler asked what the basis was for that assessment. He asked if the numbers are official and when was that decision made over which calculation method was used. Dr. Fishkind asked if Mr. Ziegler read the report that went with the Assessment Methodology. Mr. Ziegler replied that he did not. Dr. Fishkind stated that had Mr. Ziegler read the report it would have informed him that this is an option that the Board will decide. Dr. Fishkind stated that by reading the report he would have found out the one of the purposes of today's meeting was to have this public discussion so that the Board can decide what allocation method, if any, they wish to adopt and whether they even wish to move forward with assessments at this time. Mr. Ziegler asked if the number that appeared for each address was just one of a number of possibilities.

Dr. Fishkind replied that it was the one he recommended in his report but yes, the District will discuss the whole range of options and combinations at the workshop and he will offer his recommendation but it is up to the Board to decide what they wish to do.

FOURTH ORDER OF BUSINESS

Consideration of the Minutes

- a) Board of Supervisors' Meeting, September 26, 2018**
- b) Assessment Workshop, October 24, 2018**

The Board reviewed the minutes for the September 26, 2018 Board of Supervisors' Meeting. Dr. Fishkind stated that District Management received some comments from Mr. Chase relating to a technical issue on one of the citations. Dr. Fishkind thanked Mr. Chase and requested that the minutes be amended to reflect the change.

On MOTION by Mr. Smith, seconded by Ms. Bertsch, with all in favor, the Board approved minutes for the September 26, 2018 Board of Supervisors' Meeting, as amended.

The Board reviewed the minutes for the October 24, 2018 Assessment Workshop. Ms. Kopnisky stated that she has several amendments or corrections. She asked if it can be approved with corrections forthcoming. Mr. Wood stated that the proper way is to mention the amendments and approve the minutes with the amendments.

Ms. Kopnisky described a Scribner's error to page 2 of the October 24, 2018 meeting. She described an error to question 9 on page 4, the second line down. She described an error on page 9, 14 sentences from the top of the page, where the work "fact" was used in error and should be "fast" instead. Ms. Kopnisky stated that on page 11 Ms. Bondur's name is spelled incorrectly. On page 12 her name is spelled incorrectly twice. Ms. Harris stated that this is one of the reason's District staff is asking people to sign in. Page 12 also has a grammatical error in the third paragraph. Mr. Smith suggested that in the future to make corrections for things that are contextual and or the misspelling of names rather than something that is one letter off. Mr Barnebey suggested bringing typographical errors to Ms. Harris' attention prior to the meeting so she can handle them independently.

On MOTION by Mr. Ludmerer, seconded by Ms. Kopnisky, with all in favor, the Board approved minutes for the October 24 Assessment Workshop, as amended.

FIFTH ORDER OF BUSINESS

**Consideration of Resolution
2019-02, Appointing District
Officers**

Dr. Fishkind stated that it was recommended that the Board appoint a second Vice-Chairman. The recommendation is to appoint Ms. Bertsch as second Vice-Chair.

On MOTION by Mr Smith, seconded by Mr. Ludmerer, with all in favor, the Board approved Resolution 2019-02, Appointing District Officers, to appoint Ms. Bertsch as a second Vice-Chair.

SIXTH ORDER OF BUSINESS

**Consideration of Resolution
2019-01, Designating a Local
Records Office**

Dr. Fishkind explained that under Florida law the District must maintain physical copies of the records in the County in which the District is located. He stated that District staff is looking to change that in the upcoming Florida Legislature. Dr. Fishkind recommend Mr. Barnebey's office which is Blalock Walters located at 802 11th street West, Bradenton, Florida 34205. The reference to Chapter 190 should be to chapter 189.

On MOTION by Mr. Smith, seconded by Ms. Bertsch, with all in favor, the Board approved Resolution 2019-01, Designating Blalock Walters as the Local Records Office, as amended.

SEVENTH ORDER OF BUSINESS

**Consideration of Resolution
2019-03, Setting the Annual
Meeting Schedule for Fiscal
Year 2018/2019**

Mr. Smith asked if the annual meeting schedule is subject to change. Dr. Fishkind responded that it allows the District to publicize once so the District does not have to publicize each meeting but the Board can always change the meeting and republicize and hold workshops as he discussed earlier.

On MOTION by Mr. Smith, seconded by Mr. Ludmerer, with all in favor, the Board approved Resolution 2019-03, Setting the Annual Meeting Schedule for Fiscal Year 2018/2019.

EIGHTH ORDER OF BUSINESS

Consideration of Resolution 2019-04, Ratifying the Actions of District Manager to Amend Resolution 2018-09, to Reschedule the Public Hearing Date Related to the Adoption of the Fiscal Year 2018-2019 Budget

On September 26, 2018 at a duly noticed public meeting, the District's Board of Supervisors adopted resolution 2018-09, approving the proposed budget for Fiscal Year 2018-2019 and set a public hearing on the proposed budget for November 9, 2018 at 2:00 p.m. In order to comply with Florida Statute notice requirements, the Board was required to move the public from November 9, 2018 to a later date. The District manager, at the request of the Chairman of the Board of Supervisors, rescheduled the date and time of the public hearing to December 14, 2018 at 2:00 p.m. at the same location as provided in Resolution 2018-09. Approval of Resolution 2019-04 ratifies the actions of the District Manager to amend Resolution 2018-09 by rescheduling the public hearing.

On MOTION by Ms. Bertsch, seconded by Mr. Ludmerer, with all in favor, the Board approved Resolution 2019-04, Ratifying the Actions of District Manager to Amend Resolution 2018-09, to Reschedule the Public Hearing Date Related to the Adoption of the Fiscal Year 2018-2019 Budget.

NINTH ORDER OF BUSINESS

Consideration of Establishment of Auditor Selection Committee

Dr. Fishkind recommended that the Board members be named as the Auditor Selection Committee. Dr. Fishkind stated that he had a discussion with Mr. Ludmerer and he might have some other individuals he wanted to suggest that would be good to have on the Auditor Selection Committee if the Board approved. Mr. Ludmerer suggested that the Auditor Selection Committee be comprised of himself, Mr. Crouch, Bruce Mantia, a representative of the Country Club to be designated by Laurie, and he asked if there were others who wished to join the committee. No one responded.

Ms. Bertsch asked if that includes all the Board of Supervisors or just those individuals. Mr. Ludmerer stated that it would be comprised of just those individuals. The Auditor Selection Committee meetings are also public meetings and are under the Sunshine Law. Dr. Fishkind stated that District staff would provide the proper support if that is the direction the Board wishes to go. And someone from the Fishkind office.

Mr. Smith asked if it is a requirement that District Counsel and District Management be in attendance at any meeting of the Board of Supervisors. Dr. Fishkind responded no but he would like to have someone from his office who could take the minutes but if the Board wishes to have a meeting and the Board wanted to take the minutes it is fine with District staff. Mr. Smith asked if it is to be recorded. Dr. Fishkind stated that it should be recorded. Mr. Smith asked if the Board had a recording, would it be adequate for District staff. Dr. Fishkind said yes. Mr. Smith stated that it would be inconvenient to have District staff travel to a meeting if it is just a discussion. Dr. Fishkind said that District staff can call in by phone so that District management can give the Board staff support and save the travel time and advertise the meeting so that the Board has the legal protections that they need. Another Board member asked if it still requires a public notice period and Dr. Fishkind replied yes.

On MOTION by Mr. Smith, seconded by Ms. Bertsch, with all in favor, the Board Established the Auditor Selection Committee to include Mr. Ludmerer, Mr. Crouch, Bruce Mantia, a representative of the Country Club to be designated by Laurie Evans.

TENTH ORDER OF BUSINESS

Public Hearing on Adoption of District's Rules of Procedure

- a) Public Comments and Testimony
- b) Board Comments
- c) Consideration of Resolution 2019-05, Adopting Rules of Procedure

Dr. Fishkind noted that this public hearing was properly noticed and advertised and he asked the Chair to open the public comment period. The Chair opened the public comment period.

Mr. Deuble asked where the previous discussion items were listed that the District is opening up to discuss now. Dr. Fishkind responded that at the last Board Meeting the Rules of procedure were brought up and there was a discussion and the Board decided to hold this public hearing. Mr. Deuble asked if those items were published as part of that meeting. Dr. Fishkind responded that they were recorded in the minutes.

The Chair closed the public comment period and turned to the Board for comments.

Ms. Kopnisky requested a definition under Rule 3.5 and 3.6 for Construction Contracts. She asked for clarification on the difference between not design-build and design-build. Dr. Fishkind explained that a design-build contract would be if the District hired someone to design and immediately starts building construction and a more normal contract would be in two phases, a design phase and a build phase.

Mr. Barnebey stated that under emergency meetings it identifies who can call the meeting. He recommended including District Manager to the list of who can call a meeting. Mr. Barnebey also suggested District insert separate language for both Special Meetings, Regular Meetings, and workshops so it is clear. Ms. Bertsch asked if an emergency meeting is called does it still require a quorum. Mr. Barnebey responded yes.

Dr. Fishkind suggested adding a section 6a to allow any Board Member to request a workshop as long as District staff is noticed to run the advertisements and coordinate staff report. District staff could help the board facilitate that.

On MOTION by Ms. Bertsch, seconded by Mr. Ludmerer, with all in favor, the Board approved Resolution 2019-05, Adopting Rules of Procedure, as amended.

ELEVENTH ORDER OF BUSINESS

Public Hearing on the District's Use of the Uniform Method of Collection

- a) Public Comments and
Testimony**
- b) Board Comments**
- c) Consideration of Resolution
2019-06, Adopting the
Uniform Method**

Dr. Fishkind noted that this public hearing was properly noticed and advertised and he asked the Chair to open the public comment period. The Chair opened the public comment period. The Chair opened the public comment period.

A resident asked if the fees collected by the property assessor and the Tax Collector a combined fee or is it 3% from each and 3% of what. Dr. Fishkind responded that it is a combined 3% of the amount they collect.

Mr. Lordi asked if this refers to assessments in addition to the Homeowners Association. Dr. Fishkind stated that this has nothing to do with that issue and it is just how money would be collected by the Recreation District if this Board votes to impose assessments and has nothing to do with whether or not assessments are collected. Mr. Lordi claimed that if the Board approves a method by which to collect assessments, they are in fact authorizing to impose assessments. Dr. Fishkind responded that is incorrect.

Mr. Smith clarified that this is the structure for the process of collecting assessments if it ever took place. He stated that it is not any type of assessment and to insinuate that it is, is an erroneous statement and it is putting something out there that is not the issue. He noted that the issue is the Assessment methodology if an assessment ever occurred and if it ever occurred everyone in this room will be well informed of it but it is not planned.

The Chair closed the public comment period and turned to the Board for comments. There were no comments by the Board. The Chair requested a motion to adopt Resolution 2019-06.

On MOTION by Ms. Bertsch, seconded by Ms. Kopnisky, with all in favor, the Board approved Resolution 2019-06, Adopting the Uniform Method.

TWELFTH ORDER OF BUSINESS

**Consideration of Resolution
2019-07, Designating a Public
Depository**

Dr. Fishkind recommended tabling this motion as the District is not yet ready to consider this.

On MOTION by Mr. Ludmerer, seconded by Ms. Bertsch, with all in favor, the Board tabled Resolution 2019-07, Designating a Public Depository.

THIRTEENTH ORDER OF BUSINESS

**Consideration of Resolution
2019-08, Authorization to
Establish Checking Account
and Designation of Authorized
Signatories for Operating
Account(s)**

Dr. Fishkind recommended tabling this motion as the District is not yet ready to consider this.

On MOTION by Mr. Ludmerer, seconded by Mr. Smith, with all in favor, the Board tabled Resolution 2019-08, Designating a Public Depository.

FOURTEENTH ORDER OF BUSINESS

**Consideration of Fiscal Year
2018/2019 Budget Funding
Agreement**

Dr. Fishkind explained that all but one of the financial institutions he contacted stated that they are unwilling to provide funding for the District until assessments are in place. Florida Community Bank was the only one who said that they would

provide funding and stated they would provide a term sheet Tuesday. Dr. Fishkind stated that fees are being deferred until assessments are in place. Mr Wood recommended deferring until all the assessments are in place.

Mr. Smith asked what costs have been incurred and what is the cashflow. Dr. Fishkind stated that if District Counsel and District management submit fees to the District then the District would be in violation of the Prompt Payment Policies and they are deferring their payments until there are assessments and a funding source in place.

Mr. Smith asked if there are other options if Florida Community Bank does not provide their term sheet. Dr. Fishkind replied that the District will have greater success once assessments are in place. District Counsel and District management are deferring fees and will notify everyone of the Board's actions.

Mr. Ludmerer suggested looking to an institution that could serve the banking requirements of the Club enterprise as well as the Recreation District to facilitate funds exchange and have a zero-cost relationship. Dr. Fishkind responded that all the institutions would be interested in a depository relationship and that is why he asked to table designating a public depository until the District finds which institution the Board decides, if any, they wish to do business with. No action was required as Dr. Fishkind had a sense of what direction the Board's direction.

FIFTEENTH ORDER OF BUSINESS

Consideration of Resolution 2019-09, Amending Proposed Fiscal year 2019 Budget

Dr. Fishkind explained that this budget is a placeholder and has a not to exceed set of figures. He noted that District staff understands that there will be less need for accounting than initially anticipated because much of it will be done by the enterprise firm. Dr. Fishkind explained that the District is incurring additional staff time for Mr. Barnebey and District management and will shift some line items around. Dr. Fishkind reiterated that this is a not to exceed budget. He stated that once the District has a better handle on the budget for the Club then they will know better where the District stands and can make some further adjustments to the budget. He stated that it is easy to adjust the budget down and it is very awkward and difficult to increase it.

The Chairman asked if there were any questions from the Board. Mr. Ludmerer said in the next iteration he would like to see a breakdown of those accounting costs that would be run within the enterprise and those that would be part of the Recreation District overlay in developing the total package. Dr. Fishkind explained

that the accounting that is done at the enterprise level does not flow up to the Recreation District but he will work to get the information he is seeking.

Ms. Bertsch stated that the Board has had a lot of questions from the floor that has required legal counsel and Dr. Fishkind's expertise and she asked if that has substantially changed the budget because the District required their services to do things that might have been unplanned. Dr. Fishkind responded yes which is why they asked for an increase this year. He stated that there are certain up-front costs that occur and once the District gets past this year and decisions are made regarding bonds and assessments, that the workload will come down significantly. Dr. Fishkind stated this is why he tried to do a two-year budget to try to indicate how that might change in the next fiscal year.

Mr. Ludmerer stated that when he spoke with Mr. Mishlove and Ms. Cintron from Fishkind & Associates, there was a recognition that the amount of accounting that was originally contemplated may not be as much as what will actually be done. He asked if there could be a separation of those figures. He asked if Dr. Fishkind is saying there is no enterprise accounting in the Recreation District overlay. Dr. Fishkind stated that there will be no enterprise in the accounting. Dr. Fishkind will get him the information about the RD accounting costs but it will not part of the RD budget and it will be done as a separate information item and he does not want it to confuse the RD budget itself.

The Chair requested a motion to accept.

On MOTION by Mr. Smith, seconded by Ms. Kopnisky, with all in favor, the Board approved Resolution 2019-09, Amending the Proposed Fiscal Year 2019 budget.

SIXTEENTH ORDER OF BUSINESS

Consideration of Master Assessment Report

Dr. Fishkind stated that items 13-15 are together. He explained that the first item to be considered us the Master Assessment Methodology Report which provides his analysis which is a financing plan and assessment plan to support that by which if the Board wished to move forward with the transaction it would then be a position to have assessments. He noted that the Board is not committing to a transaction with these items. The District is only building a foundation to give the District the opportunity to have a transaction if the Board decides. He stated that the Board is not imposing any assessments yet under these items. He stated that this is the

plan under Florida Law and it is a two-step process. He explained that step one is for the Board to consider financing plan and the special benefits that might accrue and an equitable allocation method then the District would publish to all the property owners by mailed notice their individual proposed assessments if the Board decides to move forward with this plan. Dr. Fishkind stated that the Board can decide they want a different allocation plan than the one he is recommending.

Mr. Smith asked Dr. Fishkind to provide a two minutes summarization of that the Financing Plan includes. Dr. Fishkind explained that to have special assessments the District must have a reason to have them and the reason is that the Board is considering the acquisition of the Club facilities. He stated that in order to consider that it is \$16,750,00.00 proposed. He stated that this recreation District was approved by a vote which was based in part by a \$1,200.00 average assessment. Dr. Fishkind stated that he took those components and created this program so that he sized the total amount of Bond based on a \$1,200.00 average. He noted that created an expected interest rate of a \$23,000,000.00 loan. He stated that with that in mind, the questions are would the acquisition of the Club facilities create a special benefit above the general benefit that those outside University Park would get from having these facilities, owned, operated, maintained, and protected by a public body. Dr. Fishkind stated that he believes there is and he believes that the special benefit was demonstrated by the referendum itself.

Dr. Fishkind stated that if the Board finds that there is a special benefit then they would move on to discuss equitable apportionment of the assessments. He stated that in the discussions at the workshop District staff came up with a series of different ways to allocate assessments and all of them would pass the test for equitable apportion. He stated that he thinks that the Board could impose the assessments on a flat fee, \$1,200.00 per house per year, or the Board could impose the assessments based upon the market value of houses, or the Board could blend them. Dr. Fishkind recommended that the allocation be done on a 50/50 split and he thinks it is very equitable and thinks that there is a clear benefit to property value that suggests some use of that criteria as part of the Board's consideration in addition to a fixed amount is appropriate because he believes there is some additional benefit that accrues to the more expensive properties.

Mr. Smith read his philosophy to the Board and stated that he agrees with Dr. Fishkind's proposal and believes it to be appropriate and fair. Ms. Bertsch provided her overview and agrees with the 50/50 split. Mr. Ludmerer shared his thoughts about the benefits. He stated that he does not think there is a reason to assess the Club Members at a different ratio than non-club members. He also supports the 50/50 split. Ms. Kopnisky stated that at first, she thought the only two reasonable assessments allocations were the set allocation or the 50/50 split. She explained that a valid assessment requires the Board to consider the benefits from

improvement and not exceed the burden of debt and that it is fairly allocated to the properties in proportion to those benefits. She is also in favor of the 50/50 allocation.

SEVENTEENTH ORDER OF BUSINESS

**Consideration of Resolution
2019-10, Declaring Special
Assessments**

Dr. Fishkind explained that if the Board wished to proceed as discussed then the Board would approve this resolution which has the Master Assessment Report as an exhibit to the resolution.

Mr. Wood stated that it is his belief that the 50/50 split between market rate and fixed rate is the right answer to this question. Ms. Bertsch stated that she hopes that after the decision is reached, she hopes everyone is aware how the Board struggled a lot with making this decision.

On MOTION by Mr. Smith, seconded by Mr. Ludmerer, with all in favor, the Board approved Resolution 2019-10, Declaring Special Assessments. Roll call vote.

Dr. Fishkind acknowledged all the hard work done by the Board Members.

EIGHTEENTH ORDER OF BUSINESS

**Consideration of Resolution
2019-11, Setting a Public
Hearing on the Imposition of
Special Assessments**

Dr. Fishkind explained that District staff propose that the Board hold the public hearing at the December 14, 2018 Board of Supervisors meeting which will give staff enough time to send out the mailed notices.

He explained that that time the Board would review whether they wish to move forward. The Board would either express their desire to move forward or not. If the Board decides to move forward, they would open the public hearing and that will be an "*equalization hearing*". He explained that at that meeting individuals can come to the Board and can plead that their particular assessment is inappropriate for their houses and there may be exceptions and the Board can adjust the assessments in that regard. He stated that is the purpose of that meeting, that the

public would be heard on their individual properties and not upon the methodology or the process.

Mr. Smith asked what would be the circumstances for an exception to lower individual assessments. Dr. Fishkind stated that anything that the public brings up such as a financial hardship and circumstances outside the norm such as a parcel that was undeveloped and 2017 and now has a house on the lot.

On MOTION by Mr. Smith, seconded by Mr. Wood, with all in favor, the Board approved, Resolution 2019-11, Setting December 14, 2018 as the Public Hearing Date on the Imposition of Special Assessments.

NINETEENTH ORDER OF BUSINESS

Bond Referendum

- a) Consideration of Resolution 2019-12, Setting Date and Time for Bond Referendum**
- b) Consideration Of Form and Procedure for Bond Referendum**
- c) Consideration of Items to Include in the Information package Supporting the Bond Referendum**

Dr. Fishkind stated that the District needs to issue long term debt and that Mr. Barnebey will introduce the matter, there were more complications than originally anticipated.

Mr. Barnebey explained that District staff received many questions on who is going to end up voting on the Bond Referendum. He noted that District staff consulted with Bond Counsel. Mr. Barnebey stated that there was a comment that Article 7 Subsection 12 states that the constitution requires a freeholder vote on the referendum but Mr. Barnebey said that is incorrect and that section of the constitution does not apply because the District is not talking about pledging any ad-valorem taxes, this is a revenue bond and it is a separate consideration and that section applies if the District were pledging ad-valorem taxes.

Mr. Barnebey stated that as a general rule it is a vote of electors within the District and there is an exception to that for a Special District when buying assets and there is case law that suggests it can be done a different way - either through a vote of freeholders or a weighted vote. He explained that there are other options given this specific scenario. He stated that there are more statutory requirements and provisions related to a vote of the electors but there appear to be some exceptions implied and discussed inside the case law that would suggest the District could do it by another means and one other option is the method that was utilized for the selection of the Supervisor of Elections which is in the ordinance or the District could potentially go to a vote of the freeholders. He added that Article 7 Section 12 of the State Constitution requiring a vote of freeholders was unconstitutional based on the United States Constitution. He noted that it does not apply in this case anyway. He opened the floor for comments.

Dr. Fishkind stated that this discussion is related to **who** is permitted to vote not how the voting takes place.

Mr. Smith asked if it is one vote per household. Mr. Barnebey replied that it depends and if the Board does the vote by freeholders, they will know to specify how they are going to handle that. Mr. Smith asked if the Board went with a vote of the freeholders and a renter would not be allowed to vote what are the political and legal implications of that. Mr. Barnebey stated that there is more case law that supports the electors rather than freeholders. But does not specify how that is done. And it would be the Board's decision how the vote is done. Ms. Kopnisky requested Mr. Barnebey explain the difference between freeholders vs. electors. Mr. Barnebey explained that freeholders are those that own property within the District and electors are those people who are registered voters within the State of Florida.

Mr. Smith said that if electors are the ones permitted to vote it would only be those who live here fulltime and not those that live here part time. He stated all property owners should have the right to vote.

Mr. Ludmerer stated that his opinion is that property owners should have the right to vote on the Bond Referendum and that it should be one vote per household. He stated that there is caselaw for operating on a freeholder vote in that manner. Mr. Barnebey stated that there is an exception carved out for District's like ours that could be utilized for that use given the fact that the District is not using ad-valorem taxes.

Ms. Bertsch stated that she is in favor of a vote in which any property owner may vote regardless of citizenship, voter registration status and that it would be one

vote per physical address. Ms. Kopnisky and Mr. Smith were also in agreement with Mr. Ludmerer and Ms. Bertsch.

Dr. Fishkind stated that the Board could help District staff by motion to incorporate their desires so the District could have something formal in order to proceed with who is going to vote.

On MOTION by Mr. Ludmerer, seconded by Mr. Smith, with all in favor, the Board approved that for the Referendum it will be one vote per physical address by the homeowner of that address.

Mr. Whyte stated that the following each has a physical address; the HOA, Sales office, and the Club. Dr. Fishkind explained that all of them would be excluded because they did not get a special benefit and they are not in the assessment roll. He explained that the vote is for the 1,202 homes that are in the assessment that will have one vote by the owner of that address.

A resident asked how District staff will treat homes that are in foreclosure. Dr. Fishkind stated they will vote and they are going to get assessed.

Dr. Fishkind requested to move on with discussing **how** to handle the vote. He stated that he was hoping that the District could do a mail only ballot but is not sure the District can do that because it must be approved by the Secretary of State. He said that the District can do a combination of a mailed ballot and a physical ballot or just do a physical ballot. His recommendation is to do a mailed and physical ballot.

The Board discussed the options. Mr. Barnebey stated that the mailed ballot would require approval by the Secretary of State and the Supervisor of Elections. He noted that the safer approach is to have a physical ballot. He is concerned about having the mailed ballot approved as required by Statute in the timeframe Dr. Fishkind is talking about. Mr. Barnebey stated that an absentee ballot would be allowed. A resident suggested an emailed ballot but Dr. Fishkind cannot assure one vote per property per owner and stated that each owner would provide an affidavit. He wants it iron clad. Dr. Fishkind stated that the District could have both the absentee ballot and physical ballot here and it may avoid having the Secretary of State and Supervisor of Elections and then proceed in an expeditious fashion

and if there was a problem in proceeding that way District staff could stop and ask for a special meeting of the Board and proceed in that way with their direction.

Mr. Smith asked if it would be held on one or multiple days. Dr. Fishkind recommended having it multiple days to try to give people the opportunity and also notify everyone by mail to give them the opportunity to do the absentee ballot if they desire. Mr. Smith asked if the outcome of the vote would be a simple majority of those people who vote.

Mr. Ludmerer asked the difference between an absentee ballot and a mailed ballot. Dr. Fishkind stated that there is no difference. Mr. Barnebey stated that a mailed ballot would be if the District chose to conduct the entire vote by mailed ballot and an absentee ballot is if the voter did not show up in person.

A resident stated that according to Robert's Rules it is 50% plus 1 of those eligible to vote. Mr. Barnebey explained that the rules of voting on the referendum are not governed by Robert's Rules. Mr. Smith stated that is an important distinction and asked if it is 50% of the number of those who votes or 50% of those who are eligible to vote. Mr. Smith stated that he is in favor of the distinction being that it is a 50% plus 1 majority of those who actually voted. Dr. Fishkind noted that it is the Board's direction to District staff. Dr. Fishkind stated that if the Board incorporates that in their motion District staff will know how to proceed so they will have the direction clear on the record.

Mr. Wood asked if District Counsel agrees with that assessment. Mr. Barnebey stated that as with most elections, unless identified otherwise, it is 50% of the votes cast.

On MOTION by Mr. Ludmerer, seconded by Ms. Bertsch, with all in favor, the Board approved the vote to be a majority vote of 50% plus 1 of the votes cast.

An Audience member requested an individual vote. Mr. Wood stated that is what just took place by motion and he clarifies who made the motion. Dr. Fishkind stated that the final direction is what to include in information that would go with this referendum. He suggested that at a minimum the District needs the Purchase and Sale Contract, the Snell Report and additional information about any deferred maintenance items, an outline of the Club Management Agreement, and the Club Budget. Dr. Fishkind asked the Board what they want staff to include.

Ms. Bertsch asked if this would be physically mailed to each address. Dr. Fishkind responded that his plan is to mail it to each address with the ballot and instructions.

Ms. Bertsch brought up that the District will get into the situation with the absentee ballot and she noted that the District will need to provide information on the website or another way. She stated that the District needs to provide enough time for people to consider it. She suggested a timeframe of at least two weeks to read it and think about it. Dr. Fishkind stated that District staff will put the information on the website but he thinks that people who do not have access to the web or forget about the web will benefit by getting a physical package and that it is worth the expense, time, and trouble. Ms. Bertsch is concerned that with the mailing going out in December many may not get their mail until January.

Mr. Wood stated that it should include audited financials and year to date financials from the Club.

Mr. Ludmerer suggested that the documents supplied materially represent their final form and that non-material changes are enabled. Mr. Barnebey stated that District staff is in the process of getting those documents together and the District is relatively early in that process and there is some additional information needed and District staff will try to get that together.

Mr. Smith suggested holding an informational session for the community because the District will be sending them a lot of information and it may engender questions or thoughts. Dr. Fishkind replied that he thinks it is a good idea and the District could treat it as a workshop and not take any action. Dr. Fishkind stated that not all Board Members would need to be there since there would be no action taken that District Staff can run the meeting Mr. Smith mentioned that he thinks it would be important for a vast array of people who have different interests and attention spans who are reading emails or information and some people get their information better if they are able to ask a question. He wants to make sure that everyone has the right information to vote in their best interests.

Dr. Fishkind concluded that the Board is directing District staff to include the following;

1. The Audited Financials for the Club and the Club's Year to Date Budget
2. Purchase and Sale Contract
3. Snell Report and Deferred Maintenance
4. A version of the Club Management Agreement
5. Club Budget on a pro forma basis as acquired by the Board
6. Hold a workshop for the community and process the ballot accordingly.

Mr. Whyte requested that residents get one set of audited financial statements so that they can understand which set of accounting standards have been used to prepare those. He requested a full forecast of 2018 and a budget for 2019. He

requested Audited Financial Statements for 2017. Dr. Fishkind replied that is the anticipation of District staff.

Dr. Fishkind opened the floor for audience comments and requested that each person go up to the podium to speak.

Mr. Chase stated that the Snell Report does not include estimates for repair costs. It does not include a survey of the mechanical systems in the building and does not include anything on AC, Heat, Plumbing, or etc. He stated that there are no estimates whatsoever on repair costs. He asked if residents will get, as part of this package, some information on repair cost estimates.

Ms. Newman asked how the value of the homes be determined. She asked if someone will go around and evaluate all the houses. Dr. Fishkind stated that this question is not on point to what is being discussed but he will answer the question. He explained that the value of the homes is based on the 2017 market value based on the Manatee County Property Appraiser's Report. That is what is in the Assessment Report that the Board passed.

Mr. Van Brunt stated that in regards to the Snell Report, the size of the document plus the 1202 copies to be sent around is very costly. He encouraged District staff to send the information in electronic form. Mr. Van Brunt replied to Mr. Chase's question that the repairs have been estimated for the immediate future and they will be included in the 2019 forecast that Mr. Whyte just referenced.

Mr. Garrett stated that in the Master Assessment Methodology Report, distributed today, under Section 3.0 Financing Plan which states, "As discussed previously the UPRD is considering the PA value at \$16,725,000.00 in addition the UPRD has identified + or - \$3,000,000.00 in deferred maintenance expenses and potential upgrades to the RF ("cost"). UPRD would issue long-term, 30-year bonds ("Bonds") to fund the Cost." Mr. Garrett stated that since that has been identified he hopes that is shared with the residents for the referendum.

Mr. Frandsen asked why District staff would use 2017 Assessment information when 2018 is known. Dr. Fishkind responded that if he would read the Assessment Report, he would see that he identified that for two reasons. The first reason is because that is the basis upon which the referendum vote that demonstrated that there is a special benefit was made and he wanted to be consistent with the demonstration date. The second reason is that he thinks that it is appropriate to use that as a fixed base. He noted that there is no requirement that the Board use 2018 or wait until 2019 and any of those things could be done but it is within the purview of the Board as to what they wish to do. Mr. Frandsen asked if the Board wanted to comment. The Board did not wish to comment. Mr. Frandsen stated it

was a Board decision but he is not going to hear the basis for the Board decision. Mr. Smith stated that the basis for the Board's decision was discussed at the last meeting.

Mr. Chase addressed the Chair and said Dr. Fishkind keeps referring to a vote and there was only one vote with regard to the RD that he is aware of and that was the vote for the members of the Board. He stated that the RD was established by virtue of a petition and there was no vote to establish the RD. He asked that the Board instruct Dr. Fishkind to stop referring to a vote to establish the RD or a vote to adopt any particular assessment methodology because there was no such vote and it is misleading to keep insinuating that there was. He stated that there was a petition to the County Commissioners to establish an RD and there was no such vote. Mr. Smith responded that this is a matter of terminology and if that terminology does not work but the bottom line is that people had a say and an opportunity to express their opinion and it does not change the dynamic of the outcome.

Dr. Fishkind stated that District staff has the information now to know how to set up the information requirements for the referendum. Mr. Ludmerer stated that he wants to be certain that the seller will have the audited financials of the Club available. Dr. Fishkind stated that the Board made it clear that, that is what is going to go on the referendum. He stated that any of the information items that the Board directed District staff to include, if they are not available the District staff cannot proceed until they are available. Dr. Fishkind summarized that the items that will be included in the information package would include the following;

1. Audited Club Financials for 2017
2. YTD Club Budget for 2018
3. Proposed Budget for 2019 based on acquisition by the Board
4. The Purchase and Sale Contract
5. Snell Report- if it is not too big otherwise individuals will be directed to the District website.
6. Additional Information about Repairs and Deferred Maintenance that is beyond the Snell Report
7. Projection for the Club Management Agreement and how that would work.

Dr. Fishkind requested a motion to direct District staff to include those items in the information package supporting the Bond Referendum. A resident began to comment and Mr. Smith stated that he is out of order and the Board slipped out of protocol and needs to keep with the protocol of allowing the public to speak at the beginning and the end of the meeting. There will be an additional public comment period at the end of the meeting.

On MOTION by Ms. Bertsch, seconded by Ms. Kopnisky, with all in favor, the Board accepted Dr. Fishkind's statement of the next steps processes and the attachments that will be included with the referendum.

Resolution 2019-12 will be tabled until December 14, 2018 because the District cannot set a referendum date because the District does not yet have the information. Dr. Fishkind stated that the Board has not yet seen the Purchase and Sale Agreement. He thinks that the Board should wait until the December meeting and District staff can get everything prepared so that the Board can work expeditiously but he does not think the District will be ready.

TWENTIETH ORDER OF BUSINESS

Other Business

Staff Reports

- 1. District Counsel-** Mr. Barnebey stated that there were two ethics commission complaints. He responded to both of them and he has not heard back from anyone on that yet.
- 2. District Manager- No Report**

TWENTY-FIRST ORDER OF BUSINESS

Audience

Comments,

Supervisor Requests

Mr. Wood opened the floor for audience comments.

Mr. Lordi stated that he has concerns with the information package that is going to accompany the Bond Referendum. He proposed that an alternative funding mechanism to the RD be included in that information package.

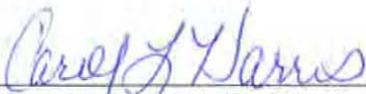
Mr. Smith requested that the Board look at the process to meet monthly prior to the Board Meeting and in between Board Meetings with the purpose of having a work session. He noted that he refrains from the word workshop because a workshop connotes a specific type of meeting. He stated that it would be a meeting for the Board to get together, establish an agenda in advance, publicized in the paper as required by the Sunshine law and one of the things to accomplish would

be for all the Board Members to be in the room otherwise it is not functional to have them calling in. He stated that he has specific ideas he would like to present to the group in terms of how the Board can better align themselves with the entire community and get out there and listen to people individually to identify areas where each Board Member is taking on specific responsibilities like being a liaison to the community. He requested November 28, 2018 as a potential date. He asked Ms. Harris to call around about find a date and time. He thinks the Board needs some quality time to have quality conversation and do it at the Varsity Club. Mr. Wood said that he thinks all the Board would agree to do that. Dr. Fishkind stated that District staff will poll the Board.

TWENTY-SECOND ORDER OF BUSINESS Adjournment

There were no other questions or comments. Mr. Wood requested a motion to adjourn.

ON MOTION by Mr. Smith, seconded by Mr. Ludmerer, with all in favor, the Friday, November 9, 2018 Board of Supervisors' Meeting for University Park was adjourned.


Secretary / Assistant Secretary


Chairman / Vice Chairman