

University Park Recreation District Board of Supervisors

May 28, 2025



LIBERTY COURT REPORTING

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UNIVERSITY PARK RECREATION DISTRICT

MAY 28, 2025

SHADE MEETING (a.k.a)

ATTORNEY/CLIENT SESSION

PLACE TAKEN: 8301 The Park Boulevard
University Park, Florida 34201

REPORTED BY: SHARON F. BUTLER
Court Reporter
Notary Public
State of Florida at Large

TIME: 11:09 a.m.

BOARD OF SUPERVISORS: SALLY DICKSON
STEVE HEITZNER
SCOTT HUEBNER
RUSTY PIERSONS
DAVID MURPHY

APPEARANCES: MARK BARNEBEY, Esquire
FRED MOORE, Esquire
Blalock Walters, P.A.
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ALSO PRESENT: VIVIAN CARVALHO

PROCEEDINGS

MS. DICKSON: And so we're going to now open the Special Board of Supervisors Meeting.

It is now -- whatever time it is, 11:00 --

MS. CARVALHO: 09.

MS. DICKSON: -- 09. And are we --

MR. BARNEBEY: Just for right now.

MS. DICKSON: Oh, okay. And so we'll start with the roll call.

MS. CARVALHO: Scott Huebner.

MR. HUEBNER: Here.

MS. CARVALHO: Steve Heitzner.

MR. HEITZNER: Here.

MS. CARVALHO: Sally Dickson.

MS. DICKSON: Here.

MS. CARVALHO: David Murphy.

MR. MURPHY: Here.

MS. CARVALHO: Rusty Piersons.

MR. PIERSONS: Here.

MS. DICKSON: Okay. So at this point I am going to turn it over to Mark Barnebey and we will proceed.

MR. BARNEBEY: Okay. Thank you very much, Chair, supervisors. We are requesting a special meeting and a shade meeting, because

1 we're having a special meeting. The shade
2 meeting to be held under the Attorney-Client
3 Session Provisions available under Florida
4 Statutes Section 286.011(8), which will be
5 held today and beginning at 11 o'clock a.m.

6 We've already discussed this with the
7 Board at a prior meeting and asked you for
8 approximately one hour, and that is at our
9 request. This meeting will be held here in
10 the business offices at 8301 The Park
11 Boulevard, University Park, Florida, 34201.

12 This meeting will commence in open
13 session, as we're doing right now, and then
14 we'll move to an attorney/client session,
15 limited in attendance to the University Park
16 Recreation District's counsel, Mark Barnebey
17 and Fred Moore, who will meet in private with
18 the Board, the District Board of Supervisors,
19 Sally Dickson, Steve Heitzner, David Murphy,
20 Russell Piersons, and Scott Huebner, and also
21 the district manager, Vivian Carvalho.

22 And we also have in attendance Sharon
23 Butler, who is our court reporter, who will
24 transcribe the full proceedings of the
25 attorney/client session to be made part of the

1 public record for release at the conclusion of
2 the litigation. For the purposes of
3 discussing the case of Dean K. Matt versus
4 University Park Recreation District, Supreme
5 Court Case SC2024-0990.

6 With that, unless there's any objection,
7 we're going to close --

8 MS. DICKSON: Yeah, so I'm going to have
9 a motion to close the Special Board Meeting.

10 MR. BARNEBEY: Or just --

11 MS. DICKSON: Or recess it?

12 MR. BARNEBEY: You want to recess it.

13 MS. DICKSON: Recess the special board
14 meeting.

15 MR. BARNEBEY: That's fine.

16 MS. CARVALHO: Is there a second?

17 MR. PIERSONS: Second.

18 MS. DICKSON: Okay. Second is Rusty.
19 Who did the motion?

20 MS. CARVALHO: You did.

21 MS. DICKSON: Oh, I did the motion.

22 All in favor.

23 (Members of the Board responded by saying
24 "aye.")

25 MS. DICKSON: Okay. You now assume --

1 MR. BARNEBEY: There's no one else in the
2 room at the present time, so I'm just going to
3 shut the door. Okay.

4 MS. CARVALHO: And I stopped the
5 recorder.

6 MR. BARNEBEY: Yes. Good.

7 Are we all ready?

8 MS. DICKSON: Yep.

9 MR. BARNEBEY: Let's do it. This is the
10 attorney/client session for this case, Dean K.
11 Matt versus University Park Recreation
12 District, SC2024-09900. Fred Moore, who's the
13 lead litigator on this matter will be talking
14 to you in just a second. I do want to remind
15 the Board of several things.

16 First of all, these sessions are -- by
17 statute are limited to settlement negotiations
18 or strategy sessions related to litigation
19 expenditures. And I think we're going to hit
20 a little bit on both of those in this
21 discussion.

22 But I want to remind you, it's limited to
23 those things. And the court cases have been
24 very strict on that. So if I tell you we
25 can't go there, that's why I'm telling you

1 that.

2 Secondly, I want to remind you that these
3 matters are being transcribed. And so like
4 many things in life, you want to be careful
5 what you might want to say during the session
6 because it will become public after we get
7 done with the litigation.

8 And third, I want to remind you to only
9 speak one at a time, because we have a court
10 reporter here, and it's difficult for her when
11 everybody starts talking. Okay?

12 MS. DICKSON: Question. Is everything
13 that we say in this room confidential and not
14 to be repeated outside of this room?

15 MR. BARNEBEY: Yes, this is
16 confidential -- this is confidential, not
17 after we get done, but once we get done, it
18 will become public. So it is confidential
19 until we get to that point. Until the court
20 case is decided or --

21 MS. DICKSON: Yeah.

22 MR. BARNEBEY: Until the court case is
23 decided or dismissed for some reason.

24 And with that, I'll turn it over to Fred
25 Moore.

1 MR. MOORE: And I will just reiterate
2 that the court reporter is -- it will be
3 transcribed, it will be on paper, and it will
4 be a public record. So it's not someone has
5 to request it to get transcribed, it will be
6 available. So just be careful with what you
7 say if you don't want it to be read later on.

8 I'm going to just start off just briefly
9 with a summary of where we are. It was last
10 spring, I want to say April time frame, when
11 we had the bond validation hearing. It might
12 have been the end of May. In which case,
13 Judge Ed Nicholas found in favor of the
14 District and entered a judgment validating the
15 bonds.

16 Mr. Dean Matt, the appellant, filed a
17 notice of appeal, and we have been proceeding
18 since. It was the end of June, beginning of
19 July when his notice of appeal was filed. He
20 essentially -- final judgment was rendered, he
21 filed a motion for rehearing which tolled the
22 time to file the notice of appeal. Once the
23 judge dispensed with that, and it was in the
24 June time frame, he had 30 days to file the
25 notice of appeal. He did so roughly on --

1 around day 30.

2 He then started to prepare the record and
3 did obtain an extension of time to file his
4 initial brief, which was due in the September
5 time frame. And then we responded to that
6 without any extensions in October. And he
7 then filed his reply brief. And it was all
8 submitted as of the middle of December, early
9 December, meaning all of the briefing of this
10 case was completed.

11 He had originally requested oral argument
12 in his initial brief. We moved to strike
13 that, but he did correct his request and filed
14 it within the time frame after the reply brief
15 was filed. And that is still pending as we
16 sit here today. Neither have been ruled upon
17 or, you know, agreed to have oral argument.

18 One more thing under the statute, bond
19 validations are to be expedited, but I've been
20 practicing for 25 years, and whether it's the
21 Supreme Court, appellate court, or even a
22 trial court, I don't know what that definition
23 necessarily means. It just means whatever the
24 judge necessarily wants it to be. So it could
25 be expedited in their mind, it could not be

1 expedited in your mind. But I would say we
2 are getting close to a decision by the Supreme
3 Court given that we are coming up on the
4 one-year anniversary of the notice of appeal.

5 So I know timing is of great concern to
6 everyone here. We do check in, or have
7 checked in with the clerk. The clerk says
8 that it hasn't fallen through the cracks. It
9 is there, it is where it should be. But that
10 is all the information that the clerk has and
11 can provide to us.

12 MR. HEITZNER: Can I ask a question?

13 MR. MOORE: Yes.

14 MR. HEITZNER: Is the one-year
15 anniversary significant of a milestone or...

16 MR. MOORE: In my mind it is, because I
17 go back to, it should be expedited. And an
18 appeal going over a year is not out of the
19 ordinary. So once you hit the year mark, this
20 would be about where I would think you're no
21 longer being expedited. But other than just
22 subjectively in my mind, it is something that
23 means something.

24 I will go back to the court also has
25 internal procedures on how it manages its

1 caseload. And that largely depends on whether
2 or not there's going to be oral argument or
3 not.

4 I will -- I did pull the Supreme Court's
5 practice guide and internal procedures. And
6 they actually have a specific section on bond
7 validation cases. That's under
8 Roman Numeral II (A)(2). And it's appeals of
9 final judgments entered in proceedings for the
10 validation of bonds or certificates of
11 indebtedness are directed to the chief justice
12 once the briefs are filed to determine whether
13 oral argument is appropriate.

14 So at this point in time, as of December,
15 the chief justice should have received all of
16 the briefs and had an opportunity to make a
17 decision as to whether to grant oral argument
18 or not.

19 If it's denied, it goes to the assigned
20 judge. That judge then goes through the
21 process of determining and then -- and writing
22 an appeal and having initial meetings with the
23 panel, and then ultimately writes a decision
24 and it gets disseminated amongst all the
25 justices. And then concurrences, dissents get

1 written. And then it would be issued.

2 Yes?

3 MS. DICKSON: I have a question. So that
4 would suggest that until this decision about
5 the oral argument is made, they're not doing
6 anything to this?

7 MR. MOORE: You're not necessarily going
8 to get a decision on oral argument unless oral
9 argument is going to be granted.

10 MS. DICKSON: Okay. So what are the
11 possible outcomes right now? They could come
12 back and say no oral argument, and so now what
13 is the next step?

14 MR. MOORE: If they came back and said
15 no oral argument, I would anticipate an
16 opinion any day. It could be issued the same
17 time, it could be issued within, you know,
18 days or weeks. I would not anticipate a long
19 period of time going forward without an
20 opinion if there is no oral argument.

21 MS. DICKSON: Okay. And that opinion
22 could be dismissed or what -- could be, We
23 don't see any relevance or whatever to this,
24 and therefore this case is done? In
25 layperson's terms.

1 MR. MOORE: It could be what's called,
2 you know, essentially an affirmance without an
3 opinion. Just simply, final judgment is
4 affirmed, case is over. It could be, well,
5 there's enough here to where we want to write
6 an opinion to reiterate certain things. And
7 that opinion would be still an affirmance, but
8 they still wanted to write why they were
9 affirming.

10 MS. DICKSON: Okay.

11 MR. MOORE: Appeal is still over. And
12 then the last piece would be they reverse the
13 trial court's decision, at which point we go
14 back to the trial court, depending on what
15 that opinion is. You either could start the
16 process over again, you could go through the
17 hearing again. It just depends on what the
18 opinion is. Or decide that you're not going
19 to do another bond validation, you're just
20 going to do an assessment.

21 MS. DICKSON: Okay.

22 MR. HEITZNER: And so I read that the
23 decision on oral arguments, there is a window
24 of time within the month of June, of a couple
25 of weeks, that decisions on oral arguments are

1 made. And if they're not made in that window,
2 they wouldn't be made until the fall.

3 MR. MOORE: The court does not have court
4 in July or August. So we are at the point in
5 time where if oral argument was going to take
6 place, it would take place in the fall. And I
7 don't have a crystal ball, but given how much
8 time has elapsed, the fact that we're in the
9 summer, and you've got July and August where
10 there would be no court, if you asked me to
11 put any money on it, I would say it's unlikely
12 that oral argument is going to be granted.
13 But I don't have any -- any inside information
14 on that, other than I'm just taking the
15 limited information I have and wildly
16 speculating.

17 MR. HUEBNER: Could I impose upon you to
18 remind me of what the basis of the appeal was?

19 MR. MOORE: Several bases. One, bad
20 judge. He didn't get his due process. The
21 other issue really is that you all did not
22 comply -- "you all" being UPRD -- did not
23 comply with your internal documents. You
24 didn't have this five-year plan in place. You
25 didn't -- the original bond did not allow for

1 additional bonds to be issued. And I feel
2 like there was one other thing.

3 My position is all of his arguments, they
4 are all ancillary to the bond validation,
5 meaning whether or not the District has the
6 authority to issue bonds, whether or not
7 there's a proper purpose for the bonds to be
8 issued. It's essentially -- and the bond
9 would be the example. If we're not entitled
10 to have another bond issued as part of the
11 original bond indenture, that's between the
12 District and those bond holders. It's a
13 contractual relationship that doesn't have
14 anything to do with the residents within the
15 District itself. It is not whether the
16 District has the authority to issue bonds or
17 that there's a proper purpose for those bonds.

18 So most of his arguments, in my opinion,
19 that was the bulk of our answer brief, was
20 that they're all ancillary and not directed at
21 the four elements that the court is to look at
22 in deciding whether or not to validate a bond.

23 MR. MURPHY: Yeah, I think there was one
24 other point you made that -- well, among
25 others, we did not prove that the return to

1 the residents would exceed the debt, that
2 there was not a financial gain that we could
3 quantify and that these amenities could not --
4 could not be quantified in terms of financial
5 return, another point that he had.

6 MR. MOORE: Yes, that was one of the
7 points.

8 MR. MURPHY: Yeah. Yeah.

9 MR. MOORE: I think he went off on about
10 a five to ten-page tangent on if we thought
11 value would be in a concrete sculpture that,
12 you know, we wouldn't be able to ascertain
13 whether that's true or not and it's just
14 subjective. And that was a big chunk of his
15 brief.

16 MR. MURPHY: Yeah.

17 MS. DICKSON: And it seems to me that
18 the -- that whole section that was put forth
19 in the PFM documents is, if I may, maybe I'm
20 wrong, sort of standard language, it's nothing
21 unusual. And it seemed as though there was
22 no -- it didn't seem like a lot of validity to
23 that argument based on current practice or the
24 way that that is looked at? I'm not wording
25 it legally, but help me with that.

1 MR. MOORE: That is correct. The court
2 would look at it and try to make a
3 determination, but there is not one set
4 formula --

5 MS. DICKSON: Yes.

6 MR. MOORE: -- for the court to make its
7 decision on. It's, you know, you know it when
8 you see it almost. We do have to put forward
9 the evidence. We did do that at the hearing,
10 and we believe that was sufficient to have the
11 court make a ruling. It would have really
12 been up to Mr. Matt, another attorney
13 challenging it, to have challenged how that
14 calculation was derived. And Mr. Matt did not
15 do that.

16 MR. HEITZNER: So other than the fact
17 that he didn't like the judge and the judge's
18 opinion, the other three points, those were
19 each addressed in the original trial?

20 MR. MOORE: At the original trial we
21 had four elements that we are required to
22 prove. We believe we put forth sufficient
23 evidence to prove that. The trial judge also
24 agreed that we had put forth sufficient
25 evidence, and then rendered his final judgment

1 based on that.

2 MR. HEITZNER: So that was evidence that
3 UPRD did not comply with internal documents,
4 we provided evidence that --

5 MR. MOORE: We did not. Because we
6 believe that's ancillary and not part of
7 what's required in the bond validation, we
8 focused on, you know, are we a validly
9 incorporated district? Yes. Does the type of
10 district that we are have the ability legally
11 to issue bonds? The answer is yes. And is
12 there a proper purpose for the bonds we're
13 looking to have issued, that being the
14 recreational facilities? That's a whole
15 purpose for the District. And then the
16 valuation of the debt and the value, is that
17 fair? Yes. That was what --

18 MS. DICKSON: Kevin Plenzer.

19 MR. MOORE: -- Kevin Plenzer testified
20 to. That was his primary role at the hearing.
21 And then at the appeal, Mr. Matt challenged
22 you to that, and then also challenged,
23 essentially, his due process rights because he
24 did not believe the judge listened to him or
25 reviewed all of his evidence. And his primary

1 factor for that was the judge didn't go back
2 and review the videos of the meetings.

3 MR. PIERSONS: Did I hear you infer that
4 the likelihood of us being successful is high?

5 MR. MOORE: I believe that it is high,
6 yes.

7 MR. PIERSONS: Okay. And does he have
8 the ability to appeal again?

9 MR. MOORE: No.

10 MR. PIERSONS: No? Okay.

11 MR. MOORE: This is the last time.

12 MR. PIERSONS: Okay.

13 MR. BARNEBEY: And it's probably worth
14 noting that it really is the last stop because
15 we went right from the district -- pursuant to
16 statute, we went right from the district
17 court -- I mean circuit court, we skipped the
18 district court. It goes straight to the
19 Supreme Court at that point, partly because of
20 the time factor usually involved in these
21 things. So...

22 MR. MOORE: Yeah, if you did not do that
23 and you had to go through the district court,
24 you'd probably look at a minimum of two-year
25 process. And so one way to look at things

1 being expedited is the fact that we -- we are
2 immediately in the Supreme Court. So that's
3 why when I say, you know, one year, is that
4 too long? Is it too short? Well, we're still
5 faster than if we had gone to the district
6 court to then make it to the Supreme Court.
7 So, yes, we're still within the range of
8 moving it along.

9 MR. BARNEBEY: So we've got -- we've
10 talked to them about the litigation expenses
11 and --

12 MR. MOORE: Well, yeah, litigation
13 expenses at this point in time are nominal
14 unless there are -- or is oral argument
15 granted. If there's oral argument granted,
16 you're going to have the prep time of, you
17 know, I'd probably say roughly a week's worth
18 of time. You have a -- roughly a day for the
19 oral arguments. It's going to be an hour
20 period, but depending on the timing of it,
21 we're working it, working through. And then I
22 would want to have about four days of prep and
23 preparation, practicing, making sure we've got
24 the law down and are able to answer any
25 questions that might be thrown at us by, you

1 know, one of the justices, because it's a
2 court exercise of, I start my presentation and
3 maybe I get through a minute of it, maybe I
4 don't before the court starts asking
5 questions. And then when there's a lull, I
6 get back into my presentation. Mr. Matt would
7 go first, as he is the appellant here. So it
8 would be Mr. Matt on the hot seat first.

9 MS. DICKSON: I have a question. So
10 litigation expenses, those are very specific
11 to this?

12 MR. MOORE: Yes.

13 MS. DICKSON: But then we have all of the
14 expenses that we have incurred throughout this
15 entire process that are considered related to
16 the litigation or not?

17 MR. MOORE: I would need more of an
18 example of what you mean by that. Everything
19 that I have done to date would be litigation
20 expenses related to the appeal or answering
21 questions as to the status. Trying to figure
22 out from the clerk's information or the
23 internal procedures where we are.

24 I know there are things that we wouldn't
25 talk about here that are related more to

1 Mr. Matt's actions that are a result of the
2 fact there's an appeal, but they're outside of
3 the appeal itself.

4 MS. DICKSON: That's my question. Yeah.

5 MR. MOORE: Okay. That would not be
6 included in my thought or work as to that
7 process and would be something that I can
8 address one-on-one with everybody, but not
9 here since it's not part of the litigation.

10 MS. DICKSON: Understood. It doesn't
11 mean that those are insignificant or
12 unanswerable, but not in this environment, not
13 related to this?

14 MR. BARNEBEY: Yeah. Now, one of the
15 things we have talked about, and one of the
16 reasons we wanted to have this shade, meeting
17 you know, we -- off and on we have talked
18 about having outside counsel to come and
19 co-counsel with us on this case.

20 And I'll let you talk about some of the
21 advantages of that.

22 MR. MOORE: Well, I have consulted with
23 another local attorney. He's on the Florida
24 Bar Board of Governors and is an appellate
25 specialist. I spoke with him early on, just

1 about trying to move it along, and his thought
2 on whether we hire, you know, what I would
3 call, you know, sort of a big gun Supreme
4 Court appellate attorney, that's primarily
5 where they practice. His initial impression
6 was he didn't think it was necessary. Gave us
7 limited assistance. And then --

8 MR. HEITZNER: And that would be only if
9 this went to oral arguments?

10 MR. MOORE: Well, that discussion was
11 early on about should we just bring someone on
12 just to have in the briefing process. Then
13 within the past month, I did reach out to
14 another attorney that I've worked with on some
15 local government matters. He's based in
16 Tallahassee. His firm does a lot of
17 government work. He was with the governor's
18 office and a few other offices up there. To
19 find out, really was there any mechanism we
20 could use to try to see where the case is at.
21 And in that consult, he ended with where I'm
22 at, which is no, not really.

23 But if we did want to try to see what
24 pressure we had, he has another attorney that
25 he's worked with, an appellate attorney who's

1 now a professor at Florida State, who we could
2 get involved. And that would be an option
3 whether they're involved by entering an
4 appearance or whether we get, you know, one of
5 these big appellate law firms that all they're
6 doing is the Supreme Court cases, hiring them
7 to enter an appearance to see if just having
8 something hit the docket doesn't trigger
9 whoever -- whichever justice this is assigned
10 to, say, oh, you know, this is something we
11 need to move along.

12 And, again, that's me looking at this
13 crystal ball and trying to make the decision,
14 is that the thing we need to get over this
15 hurdle and get a decision. I'm not of the
16 opinion that we're there yet. I think, you
17 know, we should be getting close to an
18 opinion, but, again, it's all just --

19 MR. BARNEBEY: That's why we're here, at
20 least to let you know that's an option. And I
21 would -- and obviously, you know, in this day
22 and age, I don't think that should make any
23 difference at all in how the justices rule,
24 but sometimes...

25 MR. MOORE: I will say, trial judges are

1 not particularly fond of pro se litigants. I
2 have found that appellate judges are much less
3 fond of pro se litigants. So the real
4 question is -- and unless there's really
5 something substantive here that the court
6 needs to address, I think it's unlikely that
7 they're going to want to have to deal with a
8 pro se litigant, particularly one who's, you
9 know, a third of their brief is bashing
10 another judge.

11 So that's why I still lean towards it's
12 probably less likely there's going to be oral
13 argument, and particularly, the more time that
14 goes by. But I don't want to sit here and say
15 that's what it's going to be, we're going to
16 get an opinion, they just haven't issued it
17 yet without oral argument because there's
18 still that possibility. I just think that
19 it's unlikely given those factors.

20 MS. DICKSON: So at the end of the day,
21 as we sit here, we are bearing costs and time,
22 and the community is going to bear potentially
23 very undesirable options once this goes
24 through, if we are not successful. However,
25 the litigant has no skin in this game other

1 than presumably caring about ramifications as
2 a resident. So there is no real loss to the
3 litigant in terms of cost because of course
4 there is no attorney involved. Correct?

5 MR. MOORE: Correct. The only cost --

6 MS. DICKSON: Oh, the fee.

7 MR. MOORE: -- would be the fee for
8 filing it. You know, we are not entitled to
9 recover our attorneys' fees from the litigant,
10 but we would be entitled to recover costs,
11 although to date, there aren't any costs. You
12 know, we didn't hire a court reporter for the
13 trial portion, maybe somewhat outsmarting
14 ourselves trying to avoid having the record
15 since we knew we would not be appealing. If
16 you didn't get the judgment --

17 MS. DICKSON: Right.

18 MR. MOORE: -- then we would have to
19 start over.

20 MS. DICKSON: Got it.

21 MR. MOORE: And so there really isn't a
22 whole lot of costs incurred other than the
23 attorney time, which is a fee and not a cost.

24 MS. DICKSON: Okay. So you've also
25 mentioned in the preamble here, the word

1 "settlement." So I'd be curious to understand
2 what a settlement would be. What is there to
3 settle?

4 MR. BARNEBEY: Well, let me -- when we
5 talk about -- just in talking with you
6 individually, there have been discussions
7 about whether we try to possibly settle this.
8 I don't know -- I don't know if there's a way
9 to do this. He has no attorney's fees. And
10 that was one of the things that happened with
11 the Garrett case. So we don't have that, that
12 kind of issue.

13 He has not proposed any settlement terms
14 to us, but he may have proposed terms to some
15 of you individually. I don't know. And so we
16 wanted to kind of have that discussion. If
17 there's interest in folks trying to settle
18 this matter, that's certainly up to the Board
19 to consider. But I'm not entirely sure what
20 that would look like either, other than, you
21 know, not moving forward with the bond
22 issuance, I think is probably the only thing
23 that I can think of off the top of my head.

24 MR. PIERSONS: Could I make a comment on
25 that?

1 MR. BARNEBEY: Sure.

2 MR. PIERSONS: I actually -- and you may
3 or may not know this, but I realistically had
4 conversations with John Fetsick since -- it's
5 probably been a year, close to it, saying
6 that, you know, I've been receptive to
7 discussion, hearing him, hearing, you know,
8 Dean Matt and what he has to say. So I've
9 been, I guess, in a way friendly enough to him
10 and I've listened to him. Plus, I also have
11 gone to some of his meetings that he's held
12 the last, I don't know, five or six months. I
13 don't know how long he's held those meetings.

14 So I do have somewhat of a, what I'd call
15 an extended relationship to him, which I do
16 with many of the members here. I listen to
17 what -- all of the members. And I have from
18 the beginning.

19 I certainly would volunteer, and I have
20 to John, in talking to him, because I believe
21 I can at least talk reasonably with him.

22 And I have to be honest with you, from my
23 perspective, I've really kind of heard him the
24 last couple times -- and you can all disagree
25 with me, but he seems to think that we've made

1 this personal somehow. And I think he is
2 somewhat taking it personal. So I think I can
3 get to that side of him a little bit because
4 I've been willing to listen.

5 So I'd be open to, again, only with the
6 Board's authority, to open up a little
7 dialogue with him to see if there's anywhere
8 we can move this. And you also may want to
9 give me some direction on that, but just
10 that's my two cents, if you will.

11 MR. MOORE: Part of the problem I see
12 here with a settlement is cases don't
13 necessarily settle because of who's right and
14 who's wrong. It's because of the external
15 factors. I think the Garrett case settled
16 more because of the expense that Mr. Garrett
17 was incurring to try to fight on behalf of the
18 community, in his mind. And with that paying
19 came a, how can I, you know, find an exit and
20 resolve this to the best of my satisfaction,
21 not necessarily a complete satisfaction, but
22 best of.

23 And here you have Mr. Matt, who he
24 doesn't have the expenses he's incurring.
25 It's really just his time. So it's what is

1 driving Mr. Matt.

2 MR. PIERSONS: Well, he certainly has
3 emotional connections to this, if you think
4 about it. He lives in our neighborhood, so he
5 is incurring the same costs we are. But put
6 that aside, I can't imagine his spouse is too
7 happy if this continues on and on. I mean, at
8 some point there's going to be confrontation
9 with fellow neighbors or residents, I would
10 think. That's just an opinion.

11 MR. MOORE: Right. Well, then the
12 question is is what can we give him to allow
13 for that exit or, you know, what can he exact
14 from us in order to get over that hurdle? And
15 if it's just, I don't want the bond issued,
16 we're not going to get there.

17 MR. PIERSONS: Right. Well, I haven't
18 negotiated with him, but at the same time, I
19 believe I've heard him say -- and, again, all
20 of you can correct me on this, but he was
21 looking for some form of an apology at one
22 point. I don't know what he's looking for,
23 but that's the inference I took.

24 MR. MOORE: Mark and I actually discussed
25 that a little bit. And I had shared with Mark

1 this, I think, Mark's like, well, I don't know
2 about an apology, but there might be some
3 statements. But, you know, way back when I
4 listened to an NPR article about how -- for
5 med mal cases, they found that if the doctors
6 just initially apologized, the med mal cases
7 dropped tremendously. The problem is, people
8 view an apology as something negative, as
9 saying, I was wrong when you're not always
10 wrong.

11 So it would be, how do we go about --

12 MR. PIERSONS: Right.

13 MR. MOORE: -- doing that in a way that
14 lets everybody feel like they were listened
15 to, they were heard, and it was just a matter
16 of --

17 MR. PIERSONS: It has to be a win-win.
18 Right?

19 MR. MOORE: Right. You know, differences
20 of opinion, but it's not that anyone's opinion
21 was wrong. And so how do we accomplish that?

22 Mark?

23 MR. BARNEBEY: Yep. I am not -- one of
24 the challenges here is I generally do not
25 recommend apologizing. I don't think there's

1 anything to apologize for. There are some
2 differences of opinions here. And I think
3 Fred is absolutely right that that's how you
4 end up.

5 There are some things that, you know,
6 that we could probably agree -- I don't think
7 it affected the bond issuance per se, but, you
8 know, agree that there are certain things that
9 we could have done better. But I think one of
10 the challenges is trying to figure out to
11 settle the matter if you wanted to settle.

12 MR. PIERSONS: Right.

13 MR. BARNEBEY: Other question is timing
14 at this point given where we're at. But I do
15 know that since some of you mentioned to me
16 and -- on a couple of occasions that, you
17 know, is there a way to settle this matter, I
18 thought we should have this session to discuss
19 whether or not there is some way to do that.

20 MR. HEITZNER: So then the -- I mean, the
21 100-pound gorilla is the bond, so we put that
22 out here. He's got a million other things
23 that he continues to write rhetoric about.

24 MR. BARNEBEY: Which we can't talk about.

25 MR. HEITZNER: I mean, to me those are

1 the things, if we were to ever have a
2 discussion with him, would be. Because the
3 bond's not going -- the bond issue's not going
4 away.

5 MR. BARNEBEY: Yeah, I mean to some
6 extent, his -- if you want to do that, you
7 could -- you know, you're not bound by issuing
8 the bonds necessarily. I mean, the Board
9 could change its mind. So that's a political
10 issue, per se, regardless of the -- regardless
11 of even if we get a favorable ruling.

12 So I don't know whether, as you pointed
13 out, the bond issue probably is not going
14 away, but that's a political issue as opposed
15 to a -- a policy issue as opposed to a
16 litigation issue, per se. The real question
17 is whether we could issue the bonds if we
18 wanted to, under the litigation.

19 MR. HUEBNER: So I have a question. If
20 we -- if the Supreme Court rules in our favor,
21 we can move forward with the bond --

22 MR. BARNEBEY: Um-hum.

23 MR. HUEBNER: -- or we could not move
24 forward with the bond if we decide to finance
25 through other means?

1 MR. BARNEBEY: As far as I know, until we
2 issue the bonds, we won't issue the bonds.

3 MR. HUEBNER: Okay.

4 MR. BARNEBEY: So I think the answer to
5 that is yes.

6 MR. HUEBNER: Okay. So the question I
7 have is if we -- if any of us, like myself,
8 like the business planning proposal and like
9 the idea of moving in that direction, in which
10 case it would walk away from the bond, we
11 would have an opportunity possibly to use that
12 as leverage to settle this with him right now;
13 is that correct?

14 MR. BARNEBEY: If that would be
15 possible -- if that's where the board wanted
16 to go, I think that discussion would have to
17 be in public, but yes potentially, I guess.

18 MR. HEITZNER: But that would be us
19 foregoing the bond before there's a ruling.

20 MR. BARNEBEY: Well --

21 MS. DICKSON: Yeah.

22 MR. BARNEBEY: Yeah. I mean, we're not
23 going to settle a case if we've got a
24 favorable ruling, let's put it that way.

25 MS. DICKSON: Right.

1 MR. BARNEBEY: I think that makes sense.

2 MR. MOORE: Now, if we're talking about
3 settling it, maybe it's --

4 MR. HEITZNER: Well, my point was -- let
5 me just -- my point was to think about other
6 forms of financing or whatever is secondary
7 to -- we need to get a ruling on the bond
8 first.

9 MR. MOORE: Yes.

10 MR. HEITZNER: We're not going to make a
11 decision on other forms of financing without
12 having the bond approved?

13 MR. MOORE: Had that been involved
14 perhaps, this five-year plan, a business plan
15 in place for the club is the carrot to put out
16 to Mr. Matt to try to settle the bond to allow
17 it to move forward by saying, we are going to
18 agree to these five things related to how
19 we're planning the future, the expenses of the
20 club, the revenue that we're hoping to derive
21 from the improvements being made to the club
22 itself.

23 MR. PIERSONS: So I have a question on
24 that. Approaching Mr. Matt, are we best to
25 go, if we were to consider that, to approach

1 him and hear his view points before we take
2 anyone to the table? Do we have to go to the
3 table with an answer?

4 MR. MOORE: We do not, although I would
5 want to have something in mind that we're
6 willing to do before approaching him, because
7 if ultimately there isn't anything we can come
8 up -- whether he would agree with it or not,
9 if we can't come up to some type of plan,
10 there's really no need to approach him because
11 there's nothing that we're ever going to be
12 able to agree to.

13 MR. PIERSONS: Well, in reverse, he may
14 make a statement to us that's just totally
15 unacceptable, we can't -- we wouldn't have an
16 answer.

17 MS. DICKSON: But if I can, it would seem
18 to me that why would we go -- he has not
19 stated any alternative that he has pushed in
20 all of his -- correct? He has not pushed any
21 particular resolution, Rusty, that -- in all
22 of his writings of how he wants to see it
23 done, what time frame --

24 MR. PIERSONS: He didn't --

25 MS. DICKSON: What?

1 MR. PIERSONS: I'm sorry. Go ahead.

2 MS. DICKSON: I think we can all agree,
3 if we've read any of the stuff, he has not
4 proposed an alternative. He has only
5 complained about process and the fact that he,
6 you know, doesn't like all these elements and
7 is critical of everything.

8 MR. PIERSONS: So we're saying we're not
9 open to asking him to give us --

10 MS. DICKSON: I would say, why would we
11 go to any one individual and ask them what
12 they would like when they haven't --

13 MR. PIERSONS: Well --

14 MS. DICKSON: -- through all of this
15 process, never offered an alternative, never
16 suggested, "but if you do it this way." It
17 seems to me strange that you would go and beg
18 someone for, "Well, tell us your opinion."
19 Why would we do that?

20 That's not what we're fighting against.
21 We're fighting against allegations of
22 wrongdoing and all of the various things that
23 he has brought to the Supreme Court in the
24 appeal. I find it strange to go and --

25 MR. PIERSONS: Well, it's certainly one

1 avenue, which is what I thought they were
2 discussing here --

3 MS. DICKSON: Yep.

4 MR. PIERSONS: -- about approaching and
5 trying to get a resolution to this. Which, if
6 we do nothing, we're not doing that.

7 MR. MURPHY: Excuse me. We are weeks
8 away, hopefully, from a decision.

9 MR. PIERSONS: Yeah, that's fine.

10 MR. MURPHY: Okay? So this conversation
11 we're having, to me, might have been more
12 interesting in February. Right now I
13 personally have no interest in this. Okay?

14 He has not presented a plan. We're at
15 the eleventh hour. The judge ruled. He has
16 run the clock as long as possible, which has
17 been his goal. He filed, if memory serves me
18 right, the Friday of Fourth of July weekend,
19 around 10 o'clock at night. The whole goal
20 was to stall, somehow maybe change the Board,
21 change the direction, kill the bond that way.

22 He's relentless in his accusations and
23 his claims. You were at the meeting last
24 week. Crispy or extra crispy --

25 MR. PIERSONS: I was --

1 THE COURT REPORTER: Crispy?

2 MR. MURPHY: Crispy or extra crispy.

3 Threatening civil action against us,
4 implying we don't have D&O insurance. And he
5 has two more lawsuits. Crispy or extra
6 crispy?

7 MR. PIERSONS: Yeah.

8 MR. MURPHY: Personally, this is not an
9 individual who I feel like sitting down and
10 discussing a settlement in the eleventh hour.
11 That is a big mistake in my opinion.

12 MR. PIERSONS: Well, what happens if we
13 get to the end of June and nothing happens?
14 Now we wait another two months and we're
15 not -- we're not 30 days out, we're 90 days
16 out.

17 MR. MOORE: What I was thinking is I
18 would think that you should just sit on
19 anything, because if an opinion's going to
20 come, it's going to come in June.

21 MR. PIERSONS: Right.

22 MR. MOORE: Otherwise we're now looking
23 to the fall, and now there might be a reason
24 to say, is there a settlement that we need,
25 because I think the drop-dead date is

1 September.

2 When do you need to make the assessment
3 rolls?

4 MS. CARVALHO: September.

5 MR. BARNEBEY: Yes.

6 MS. CARVALHO: September 15th it has to
7 be certified with the tax collector.
8 August 15 was the internal deadline.

9 MR. BARNEBEY: Right.

10 MR. MOORE: So if an opinion's not issued
11 in June, it might be, Let's come to a
12 discussion. This is why I think you do need
13 to have something in mind to where someone
14 approaches Mr. Matt to say, Listen, things are
15 going to be different, and I don't think
16 you're going to like that alternative either.
17 Here is a rough proposal that we hope would
18 work for you. You know, we've got the
19 five-year plan in place. We're going to have,
20 you know, X, Y, Z, would that suffice?

21 And if this framework works, we can tweak
22 it and we can get the bond issued through the
23 dismissal and move forward, but knowing that
24 it would have to take place in July, beginning
25 of August.

1 MS. DICKSON: Um-hum.

2 MS. CARVALHO: Real quick, I want to make
3 sure, and maybe the Board understands this,
4 but even the approach of potentially going
5 with an offering, right, extending an offering
6 to Dean, you will be present in that
7 discussion. Correct?

8 MR. MOORE: I would want to be present.

9 MS. CARVALHO: Yes.

10 MS. DICKSON: It would be myself and a
11 representative from the District.

12 MS. CARVALHO: I just want to make sure
13 that it's clear, because we are in litigation.
14 So when you have a litigation matter, really
15 any board member has to have representation of
16 the attorney that's litigating that case
17 present. This is not a one-on-one
18 conversation.

19 MR. PIERSONS: Okay.

20 MR. MOORE: And now maybe when this is
21 transcribed and Mr. Matt reads this, he'll
22 say, That's untrue, Fred, but I felt like I
23 had a mutual meeting with him. Several times
24 I had to meet with him to deal with the
25 record, and we were friendly. It was

1 professional. There wasn't any real animosity
2 between the two of us. So, you know, I would
3 like to think that he would be receptive to a
4 conversation with me. I'm not Mr. Barnebey
5 here, the big bad District attorney.

6 MR. BARNEBEY: I do think one of the
7 challenges here is he has not discussed any,
8 any potential settlement with us. I would
9 have thought he would have reached out to us
10 to do that, but he has not done that. And I
11 certainly can appreciate David's comments.

12 MR. PIERSONS: Well, if he thinks he's
13 going win, and I'm not saying he does, he
14 would have no reason to approach us.

15 MR. BARNEBEY: Understood.

16 MR. MURPHY: Excuse me. He has
17 repeatedly called for resignation of certain
18 board members.

19 MR. PIERSONS: Yeah.

20 MR. MURPHY: I believe he's also called
21 for resignation of board members who are no
22 longer on the board. In my opinion, this is
23 just my opinion of course, he hasn't offered
24 up a settlement because he has no skin in the
25 game. If he was into this for \$100,000 in

1 legal fees, then I think he would be
2 potentially more inclined to raise his hand.

3 This provides material for monthly
4 meetings, for the endless, repetitive emails
5 sent out throughout the community.

6 I met with Dean Matt and Steve Parkinson,
7 along with John Fetsick, in November, before
8 we even had this whole referendum with the
9 town halls. And he presented himself as a
10 spokesperson for the opposition. We hadn't
11 even presented things at the town halls. And
12 we thanked him. He told us all about his
13 background in business in the marijuana
14 industry, and his offer to be spokesperson.
15 We were polite and very cordial, and that was
16 that.

17 And then a couple months later, when we
18 started the town halls, he was very vocal
19 right from the get-go, accusing us of all
20 kinds of things. And then it was off to the
21 races. So -- and again, as recently as last
22 week, it's just this endless barrage.

23 So he doesn't have skin in the game. He
24 moved in here after the turnover. So he knew
25 what the financial burden was and he knew what

1 the terms of the deal was. He wasn't here
2 before the turnover. He came in after
3 everything was done.

4 So, again, I see no benefit, especially
5 at this point in the calendar, to speaking
6 with him. And hopefully the bond will
7 prevail. And after it does, in my opinion, he
8 will continue to come after certain members
9 and certain policies because this is now his
10 platform. This is what he does. This is his
11 profession.

12 MR. PIERSONS: When you say turnover,
13 you're speaking specifically when we took it
14 over?

15 MR. MURPHY: Yes.

16 MR. PIERSONS: Okay.

17 MR. MURPHY: Yeah. Yeah. So I think
18 this is --

19 MR. MOORE: "We" being the District.

20 MR. PIERSONS: Yeah. Right.

21 MR. MURPHY: Yeah, "we" being the
22 District.

23 MS. DICKSON: Yeah, not this Board.

24 MR. MURPHY: No, no, no.

25 MR. PIERSONS: That's what I wondered.

1 MR. HUEBNER: So I have two questions.
2 If the Supreme Court decides in our favor,
3 that would permit us to proceed forward with
4 the bond.

5 MR. BARNEBEY: Um-hum.

6 MR. HUEBNER: What do we think will
7 happen with Mr. Matt? Will he walk away at
8 that point? Will he begin these additional
9 crispy and extra crispy lawsuits?

10 MR. HEITZNER: Yes.

11 MR. HUEBNER: Do you think that's --

12 MS. DICKSON: Oh, yeah.

13 MR. HEITZNER: Yeah. Well, we'll have to
14 walk away from the bond, but he'll --

15 MR. MURPHY: No, there will be a new --
16 new complaint about something. Again, this is
17 just my opinion as someone who's dealt with
18 him.

19 MR. HUEBNER: So what happens if the
20 Supreme Court decides against us? It will be
21 sent back down to the lower courts to review
22 again?

23 MS. DICKSON: It's not going to --

24 MR. MOORE: It could be over because --
25 depends on what the opinion is. It could just

1 be over. Could go back down. Then it would
2 be up to the Board to decide, do we still want
3 to issue the bond and do we correct whatever
4 it is the Supreme Court says was done wrong or
5 not.

6 MR. HUEBNER: Um-hum.

7 MS. DICKSON: And then that starts the
8 process over again.

9 MR. PIERSONS: Right.

10 MS. DICKSON: With possibility of
11 appeals, et cetera.

12 MR. MOORE: Correct.

13 MR. HEITZNER: It continues to delay
14 everything. So --

15 MS. DICKSON: If I may? So the reality
16 is that we're going to be approaching this
17 question of the irrigation system and -- I
18 know, but this is all part of the whole thing.
19 So if we don't do the bond or if they don't
20 make a decision, we've got decisions as a
21 board that we are going to make. We have to.
22 We have deadlines. So we are going to be
23 looking at all of those alternatives.

24 I know, from what I understand from John,
25 you were -- you and Paul and John are looking

1 at the financial impacts of the various
2 things, not just the Business Planning Group,
3 which remember, we also have UPCAII we have to
4 deal with on any changes in membership status.
5 So they come into play on that.

6 But putting that aside, there are a
7 number of things, ideas that people have put
8 forward in terms of alternative financing.
9 We're going to be discussing all of those.
10 And we may opt, Okay, we're going to move
11 forward and we're not going to deal with the
12 bond. We're going to go forward, we're going
13 to go with the assessment.

14 There's all these options. There's the
15 options of the assessment that was on the
16 table two years ago, when we put this whole
17 thing together. It was either the bond or we
18 would look at do incremental assessments to
19 the community and move forward with the plan.

20 So it's not all about the court and what
21 they decide. It's also going to be about what
22 this board decides in terms of how far we're
23 going to take it, how much more we're going to
24 expend. Does the cost of extending the ban
25 outweigh the cost of doing something else

1 alternatively from the financing standpoint.

2 MR. BARNEBEY: But you -- and all that
3 wraps into why -- why -- whether or not we
4 want to move forward with discussions, any
5 discussions with Dean Matt at this point. I
6 think if there's going to be discussion in
7 that regard, then those are all the factors
8 that should be considered by Board.

9 MR. HUEBNER: I'm just trying to
10 understand what the ongoing litigation
11 scenario may be and/or the expense that will
12 continue on with that. And if there was an
13 opportunity to get to some resolution that we
14 could bring those things to an end and not
15 have this stuff continue into the future.

16 MR. MOORE: That can only work so much
17 because we don't know what future facts are
18 going to be created. So we can't get him to
19 agree not to do something in the future that
20 he doesn't know will exist.

21 But I will say, crispy or extra crispy
22 puts much more skin in the game on Mr. Matt's
23 side because within the validation process --

24 MR. PIERSONS: Yeah, the --

25 MR. MOORE: Within the validation process

1 we're -- this is very much regimented, and you
2 can't say this is frivolous or this isn't
3 frivolous, a lot of anything crispy or extra
4 crispy, that's a whole different set of facts
5 and a lot more skin in the game by Mr. --
6 Mr. Matt.

7 So really the focus is here, do we need
8 the bond? Do we need it now? Is it the only
9 alternative or do we have other options? That
10 would be the factor I would look at on how to
11 approach a settlement with Mr. Matt for the
12 validation, because we can't -- it's not going
13 to settle any grievances he might have related
14 to future acts.

15 MR. BARNEBEY: And just to remind you, if
16 he does file suit against us, we could ask for
17 another shade meeting on that at that point.

18 MS. DICKSON: Oh, yeah.

19 MR. BARNEBEY: On whatever it is.

20 Just talk about costs for a second, and
21 you can correct me if I'm wrong, assuming that
22 we -- generally the consensus is not to hire
23 outside counsel at this point, we may have no
24 other legal costs if the decision comes out in
25 our favor --

1 MR. MOORE: I wouldn't say "no," but it
2 would be nominal.

3 MR. BARNEBEY: Minimal, yeah.

4 MR. MOORE: I would read the opinion and
5 going through that --

6 MR. BARNEBEY: I understand that.

7 MR. MOORE: But it's -- and if there's
8 oral argument -- I don't recall what our
9 current hourly rate is for you all, but, you
10 know, I would say if it was \$300 an hour, it
11 would probably be in the neighborhood of
12 \$12,000, would be what I would think the
13 preparation and attendance at the oral
14 argument would be.

15 MR. MURPHY: Yeah. And I believe the
16 real cost has been what it's done to the
17 community. Inflation. These looming tariffs.
18 Denying our residents access to amenities that
19 they deserve by continuing to push the
20 calendar out. Those are the real costs in my
21 opinion.

22 And our job is to represent this
23 community and to do things in the best
24 interest of the community, whether it serves
25 our personal needs or not. And I think that's

1 been the most harm done by this action on the
2 part of one individual out of 1,201 homes.
3 And that's the cost we're going to see two
4 years from now, three years from now, when we
5 go to build something.

6 We spoke in the town halls about
7 alternative financing. There's assessments,
8 assessments over time, staggered settlements.
9 We looked at every combination. Short-term
10 financing.

11 The bottom line is we've got to pay for
12 things. And it was decided by the Board at
13 the time that the bond was the lowest-cost way
14 to do it. People could also retire the bond,
15 as we told people, for like \$16,000, on day
16 one. So all these inflated 20, 30-year
17 numbers, I would say no one takes out a
18 \$450,000 mortgage and says I have a million
19 and one mortgage on the house. And they paid
20 800,000 for the house. Who would do that?
21 But that's the sort of funny math that gets
22 presented.

23 So there are lots of ways to pay for
24 things. We can incorporate parts of the
25 Business Planning Group. I think you've got

1 some good ideas. The lifestyle membership
2 was --

3 MR. BARNEBEY: Hold on. Hold on. We're
4 starting to get off track to your --

5 MR. MURPHY: I'm sorry.

6 MR. HUEBNER: So to your point --

7 MR. MURPHY: There are many options we
8 will have, but first we need to get this case
9 settled so we know that the bond remains an
10 option. And then we can discuss how large the
11 bond should be, et cetera.

12 MR. BARNEBEY: So the question -- and I
13 think I know your -- I mean, you've already
14 stated your opinion on this.

15 At this point whether or not we want to
16 reach out to Dean Matt and discuss settlement
17 is, I think, the question on the -- and what
18 that might look like would be the question on
19 the table.

20 MR. PIERSONS: Well, again, I'm guessing,
21 but I thought I was hearing you say -- I know
22 David inferred it, but obviously through the
23 month of June, we wouldn't want to do that
24 because we don't know where the status is, but
25 after June, whatever that date is, 31st or

1 30th, we may want to have a --

2 MR. MOORE: That would be up to you all
3 to decide but --

4 MR. PIERSONS: We may.

5 MR. MOORE: -- what I would say, if
6 that's the way the Board's leaning --

7 MR. PIERSONS: Correct.

8 MR. MOORE: -- then I would say we would
9 probably want to reach out to Mr. Matt at the
10 tail end of -- not in July, but the tail end
11 of June, because --

12 MR. PIERSONS: Yeah.

13 MR. MOORE: -- it's going to take a week
14 or two to set anything up anyways.

15 MR. PIERSONS: Sure.

16 MR. MOORE: And certainly if a decision
17 happened that last week, we just don't set up
18 or show up.

19 MR. PIERSONS: Right.

20 MR. MOORE: But at least if that's what
21 the Board wants to do, we've got something in
22 the pipeline, and we meet in early July so we
23 know whether we can get something done before
24 the internal August 15th deadline.

25 MR. PIERSONS: So that's -- if I hear

1 correctly, that's one option. Are there other
2 options?

3 MR. MOORE: First option is we sit and do
4 nothing and we wait for an opinion. The
5 second option is we approach him now and see
6 if there's some set of terms that we can
7 provide to him. And then the third would be
8 we see how June goes and approach him with
9 that same set of possible terms.

10 MR. PIERSONS: Yeah.

11 MR. BARNEBEY: And certainly if he made a
12 proposal to us, a good faith proposal to us,
13 we would have to bring that to you.

14 MR. PIERSONS: Yeah.

15 MR. MURPHY: Sure.

16 MR. BARNEBEY: But that has not happened
17 as of yet.

18 MR. HEITZNER: I have to say, so I've
19 been a proponent for a while of Rusty doing
20 exactly what he has suggested. Listening to
21 the conversation, I'm more inclined to wait
22 until we're at a point that that is the only
23 option. Because if we don't get a ruling by
24 the end of --

25 MR. PIERSONS: June.

1 MR. HEITZNER: -- June, whatever the date
2 was, then maybe that's the point in time that
3 that's worth a conversation, but until then --

4 MR. MURPHY: I agree.

5 MR. MOORE: And I will say, I don't want
6 to say that there's absolutely no chance that
7 an opinion would come in July or August. It
8 just -- it seems very unlikely since they
9 don't have oral argument. And I will say,
10 many, many attorneys and judges I know take
11 July off for vacations. So I think that's --
12 the likely scenario is no oral arguments, no
13 case --

14 MR. HEITZNER: But since we have to make
15 some decisions prior to then, when the ruling
16 might come, talking to him and making a point
17 of saying, Look, we want to come to some sort
18 of a resolution prior to us having to put
19 these assessments in place, or whatever it is
20 that we decide is the best solution from a
21 financing standpoint, I think that's -- that,
22 to me, that's the time to have that
23 conversation.

24 MR. BARNEBEY: Is that the consensus at
25 this point?

1 MR. MURPHY: I don't want to speak to him
2 at any point, but that's clearly a --

3 MR. PIERSONS: Yeah, I agree with Steve.

4 MR. MURPHY: That's clearly an option
5 that we can consider when the time comes.

6 MR. HUEBNER: So I disagree with David.
7 I think we should talk to him and try to find
8 a resolution, see if there's anything we could
9 do that would allow him to -- us to move
10 forward, otherwise we're going to continue
11 forward. And I'd put it to him that way. The
12 worse that happens is he says no. We walk
13 away.

14 We might be able to get there sooner. I
15 understand the timeline of -- the June
16 timeline because then we're in a bit of a
17 bind, but he'll know we're in a bit of a bind
18 at that point.

19 MR. HEITZNER: Well, we're -- we're in a
20 bind and we're not in a bind. Right? Because
21 we're not in a bind because we can just say
22 we're going to move forward with assessments.

23 MS. DICKSON: Correct.

24 MR. MURPHY: Right.

25 MR. HEITZNER: That puts him in a bind, I

1 think. Right? I think.

2 MR. MOORE: We have been very --

3 MR. PIERSONS: Well, it doesn't put him
4 in a bind. He's done. Right?

5 MR. HEITZNER: Yeah.

6 MR. MURPHY: Well, we have been clear
7 since the beginning that the alternative, if
8 the bond did not succeed -- and this is
9 pre Dean Matt's litigation -- that we have to
10 pay the bills. And this is how you pay it. I
11 mean, assessments and multi-year signal,
12 whatever. And we cranked it back. I mean, we
13 decided ultimately not to go with the 7,500
14 and 7,500, and said let's just fund the
15 irrigation, at least part of the irrigation,
16 and we'll take the rest out of the bank. So
17 we made it as painless as possible.

18 And we need the money. And we need to
19 find the money. And it can't be, with all due
20 respect to the Business Planning Group, it all
21 can't be on projections over the next five
22 years. Can we reduce the size of the bond?
23 Perhaps. Are there things that we could do?
24 Sure. And I think we should incorporate some
25 of those ideas. But we're still going --

1 we're still going to need the money, so...

2 MR. HUEBNER: So I have one more
3 consideration. If we could come to a
4 settlement, let's say his terms are something
5 we could accomplish, it would end any
6 potential risk of further suit, I think.

7 MS. DICKSON: No, it would not. I don't
8 believe that.

9 MR. HUEBNER: That would be part of the
10 settlement in my opinion.

11 MS. DICKSON: How do you guarantee that?

12 MR. MOORE: Any releases that would be
13 part of a settlement would only be looking to
14 the past, not to future acts, future claims,
15 so...

16 MR. HUEBNER: Okay. But the stuff he's
17 talking about is past stuff.

18 MR. MURPHY: But it wouldn't take off the
19 table future litigation, threats of
20 litigation. No, you couldn't get that
21 release, which is what I thought you were --

22 MR. HUEBNER: No, no, no. I'm just
23 talking about the other issues that he's
24 addressed, if they were part of the
25 settlement, then we limit our cost of

1 litigation moving forward.

2 MS. DICKSON: I'm not sure -- can you
3 give me an example when you say -- what are we
4 limiting --

5 MR. HUEBNER: If he sues us for some
6 other stuff relative to what's happened in the
7 past, regardless of how this is decided, we're
8 going to continue to have legal bills moving
9 forward. If we settle with him now, give him
10 something that makes him happy, with the
11 understanding that anything that he is holding
12 against us in the past, there's no lawsuits,
13 it comes to an end.

14 We've all agreed he's going to continue
15 to sue us whether the Supreme Court decides
16 either way.

17 MR. MOORE: A release would -- could
18 apply to any and all known claims as of the
19 day of the settlement. Right.

20 MR. HUEBNER: That's what I'm talking
21 about.

22 MS. DICKSON: And -- excuse me. But then
23 on day two, we make a decision as the Board,
24 and he finds fault with that. And now he's
25 going to hold -- he's got a new approach that

1 he wants to now have a lawsuit over.

2 So I think we have to deal with realities
3 of the threatened lawsuits -- and it goes back
4 to Rusty and alluding to that this is a -- by
5 saying an apology, that this is a big
6 emotional issue. You don't, in my opinion,
7 you don't settle based on someone's emotions.

8 And apology for what? What is the litany
9 of apologies that would be necessary?
10 Obviously you have some sense because you've
11 had the conversation. You said you --

12 MR. PIERSONS: Well, I've heard him talk
13 to us.

14 MS. DICKSON: What?

15 MR. PIERSONS: I've heard him talk to us
16 publicly.

17 MS. DICKSON: Okay.

18 MR. PIERSONS: So --

19 MS. DICKSON: So apologies for
20 disagreeing?

21 MR. PIERSONS: Well, you're making --
22 Sally, in reality, you're making a
23 hypothetical based on the future, based on the
24 future that he's going to sue us on something
25 else. Whether we do anything or not, whether

1 we win the case, he can sue us any time he
2 wants to. Anybody can sue anybody --

3 MS. DICKSON: Oh, I --

4 MR. PIERSONS: -- they want.

5 MS. DICKSON: Oh, no, Rusty, don't
6 misinterpret what I just said. You referred
7 to a settlement and saying, well, frankly, he
8 really wants an apology. That's for the past.

9 MR. PIERSONS: He inferred that.

10 MS. DICKSON: I'm now talking about for
11 future.

12 MR. PIERSONS: He inferred that.

13 MS. DICKSON: So how do you -- what is an
14 apology -- how does an apology -- well, you're
15 the one who said it. What is your
16 interpretation --

17 MR. PIERSONS: In one of his meetings,
18 and it might have been two, he clearly said,
19 "I'm owed an apology." He clearly said it.
20 We can go look at the videos if we need to.

21 MS. DICKSON: Sure, we can. Sure, we
22 can.

23 MR. PIERSONS: I can't pull that -- he
24 said it. I didn't.

25 MS. DICKSON: Oh, so your approach --

1 MR. PIERSONS: So his emotional thoughts
2 are into it, so --

3 MS. DICKSON: Very much so.

4 MR. PIERSONS: Yeah. And I think it has
5 gotten somewhat personal throughout the whole
6 time frame.

7 MS. DICKSON: Somewhat personal in terms
8 of?

9 MR. PIERSONS: The entire discussion over
10 the last year has gotten a little personal.

11 MR. MURPHY: Against -- against some of
12 the board members. Okay?

13 MR. PIERSONS: Yeah, it is.

14 MR. MURPHY: Okay. And well, that's --

15 MS. DICKSON: Well, are you concerned
16 about getting personal against him? I guess
17 that's my question.

18 MR. PIERSONS: Yeah, I think it's gone a
19 little bit both ways. Yes, I do.

20 MS. DICKSON: Okay.

21 MR. PIERSONS: Yeah.

22 MS. DICKSON: So there was no place for
23 that. On the other hand, people are human.

24 MR. PIERSONS: Right.

25 MS. DICKSON: And when you're not the

1 recipient of those attacks, you probably have
2 a very different opinion. But I think all of
3 those personal attacks reflect, not just on
4 certain people, but on the entire board and
5 the integrity of the entire whole group.

6 MR. PIERSONS: Right.

7 MS. DICKSON: So I suggest that we just
8 remember that. And I see that there's no
9 place for that. And I certainly see there's
10 no place for an apology based on somebody's
11 hurt feelings or whatever other machinations
12 are going on inside their head. That has
13 nothing to do with the realities and the
14 details of what's going to happen here
15 financially and --

16 MR. PIERSONS: So there is one thing that
17 we don't have on the table to go to him with.
18 If the majority of the people here feel that
19 we wouldn't accept an apology, well, then
20 that's part -- that's not acceptable.

21 MS. DICKSON: If we --

22 MR. PIERSONS: I mean, I'll come back and
23 say I happen to agree with Steve. I heard you
24 say no now. I happen to think that over the
25 next 30 days, we should be prepared to go meet

1 with him if nothing happens. Because we're --

2 MS. DICKSON: If nothing happens.

3 MR. PIERSONS: Right.

4 MS. DICKSON: So when you --

5 MR. PIERSONS: Correct.

6 MS. DICKSON: Well, wait. When you say
7 over the next 30 days --

8 MR. PIERSONS: If we don't win, or this
9 case doesn't move forward --

10 MR. BARNEBEY: By the end of June.

11 MR. PIERSONS: By end of June.

12 MS. DICKSON: Then we should think about
13 having a conversation?

14 MR. PIERSONS: Yes. I --

15 MS. DICKSON: Okay. That's different
16 from --

17 MR. PIERSONS: As I said -- as I said
18 before on the record, I agree with Steve --

19 MR. MOORE: There's a court reporter
20 here, so --

21 MS. DICKSON: I'm sorry.

22 MR. MOORE: -- one at a time.

23 MR. PIERSONS: Okay.

24 MS. DICKSON: Sometimes it takes some
25 clarification.

1 MR. PIERSONS: Yeah.

2 MS. DICKSON: So I think --

3 MR. PIERSONS: Go back and look at the
4 notes.

5 THE COURT REPORTER: You're still doing
6 it. One at a time.

7 MR. PIERSONS: Yeah.

8 MS. DICKSON: Yeah. Nobody's questioning
9 looking at the notes. I think my point on the
10 30 days and trying to clarify is we're not
11 talking about doing something before the end
12 of June in the chance that we are going to get
13 some kind of a conclusion from the Supreme
14 Court. So --

15 MR. PIERSONS: Ultimately that's what
16 Steve and I stated. David did not.

17 MS. DICKSON: I believe --

18 MR. PIERSONS: And Scott said it.

19 MS. DICKSON: Okay. Can I just finish my
20 statement?

21 MR. PIERSONS: Sorry. I thought you were
22 done.

23 MS. DICKSON: No, I wasn't. So my point
24 being that's what we're talking about, because
25 I also heard, I think we should move forward

1 and have those discussions. So not before the
2 end of June so that we see what happens. And
3 then the concept of maybe reach out, but
4 when -- in reaching out with -- I guess the
5 question is with an open book and say what do
6 you want? Or is it with a, here's what we can
7 do?

8 I guess I question that. Do you
9 typically go into a settlement situation with
10 no idea of what someone wants throughout
11 multiple months and months and months of
12 complaints and criticisms and threats where --
13 do you go in blindly and say, okay, so after
14 all of this, what is it you want? Or do you
15 go in and say, look, here's what we ascertain
16 from all of your multi-page -- whatevers, you
17 know, here's where we stand on these things?

18 I don't understand the -- explain how the
19 settlement process would work.

20 MR. MOORE: I mean, it can work however
21 we choose to go. But I might in this instance
22 approach it from the perspective of, You do
23 realize it seems unlikely that a decision is
24 going to be made between now and September 1st
25 that's going to cause other pain to the

1 residents of the District because the
2 District's going to have to evaluate other
3 financing arrangements because these things
4 are going to get done. So how can we satisfy
5 you to allow what we feel is the best
6 financing to move forward?

7 You know, what is it that you're looking
8 for out of this, other than we're just not
9 going to bond this debt? Because that's just
10 not going to happen. And then listen.

11 MR. PIERSONS: But back to what you said,
12 I thought earlier, that somehow we want to
13 turn this into a -- it's got to be win-win for
14 both sides.

15 MR. MOORE: And I think --

16 MR. PIERSONS: He can't just be the
17 winner and we're not getting anything.

18 MR. MOORE: Well, I think by approaching
19 and saying that if the bond's not issued,
20 we're moving forward with financing these
21 repairs, no matter what. It's just how much
22 pain do each of the residents want to have now
23 versus over time. And so what can we do to
24 satisfy you to let this bond go forward? You
25 know, maybe it's -- what is it, is it up to

1 \$21 million? Maybe we say we only need up to
2 \$15 million. Maybe we have a clear business
3 plan for what we want to do with the club for
4 inviting in the public.

5 These are the things that might be on the
6 table. You know, and then part of it is just
7 letting him know that he's not going to be a
8 winner in this even if he wins this appeal, so
9 how can we both have an exit route.

10 MR. PIERSONS: That's a good one.

11 MR. MURPHY: Whoever made the statement
12 earlier, might have been Sally, is very
13 accurate. In all of this, there's never been
14 a plan, that I have seen. Maybe Scott or
15 Rusty, maybe he's presented a plan at one of
16 his meetings. I'm not aware of any plan.

17 His plan, in my summation, is do nothing.
18 We don't need anything. The irrigation should
19 have been paid for by the prior owner, the
20 developer. We overpaid for the club. The
21 prior board was irresponsible. This board is
22 irresponsible. The board in between was
23 irresponsible. Everyone's irresponsible. And
24 never have I seen an alternative.

25 He will lament the interest on a 20-year

1 bond, but short-term financing needs to be
2 paid back. But he doesn't even propose that.

3 I've certainly had a fair amount of
4 contact with him when I was handling
5 communications. No decision has ever been a
6 good decision. Nobody on the board who he
7 gets involved with is competent in any way.
8 You're new. You're new. Over time, no
9 competency. UPCA, incompetent. But never
10 have I seen a plan, an alternative proposal
11 that we could consider. And I've been sitting
12 here a while, and I was dealing with him
13 before then.

14 MS. CARVALHO: I have a question from a
15 process standpoint. If the Board determines
16 today that we'll potentially talk to him,
17 right, after that time frame of June, what
18 happens? Do we not discuss it in the public,
19 a motion of going to talk to him? Or is there
20 an additional shade meeting to determine what
21 will be the parameters of that discussion that
22 will occur, let's say just putting as an
23 example, Rusty with Fred? Do you understand?

24 MR. BARNEBEY: Yeah, I do understand.
25 But the answer to that question is --

1 MR. HEITZNER: I don't think he'll be
2 happy in front of him.

3 MR. BARNEBEY: Well, at this point -- at
4 this point, my recommendation would be,
5 because I don't know there's a consensus to
6 what we should be talking to him about, is we
7 come back sometime after July 1, and then
8 decide if we want to -- what we would do. And
9 we'd come back and we'd do that in a shade
10 meeting as well.

11 MR. HUEBNER: Okay.

12 MR. BARNEBEY: I don't think there's
13 anything at this point to do in public. The
14 consensus is first not to do anything at this
15 point, is what I'm hearing. You all can
16 correct me if I'm wrong. But to reevaluate
17 where we're at after July 1.

18 MS. CARVALHO: Yeah, I just wanted to
19 emphasize that process because when you're in
20 the shade and if there is consensus of the
21 Board about any type of direction that
22 happens --

23 MR. BARNEBEY: That's not necessarily
24 true.

25 MS. CARVALHO: Has go back to the --

1 MR. BARNEBEY: Depends on -- depends on
2 what we're talking about.

3 MS. CARVALHO: Right.

4 MR. BARNEBEY: We're going to make a
5 formal proposal, absolutely.

6 MS. CARVALHO: That's what I mean.
7 Exactly.

8 MR. BARNEBEY: We're not talking about
9 making a formal proposal. Getting consensus
10 to talk to him would be a different issue.
11 That would not necessarily have to go out to
12 the Board.

13 MS. DICKSON: What's the advance notice
14 required for a shade meeting?

15 MR. BARNEBEY: Seven days. But I have to
16 announce it in a public meeting in advance of
17 that. Well, somebody does. And so --

18 MS. DICKSON: Okay. So if by July 1st,
19 which is our next workshop -- would that
20 count?

21 MR. BARNEBEY: Yes.

22 MS. DICKSON: At that point you could
23 say, I'm also going to announce that, you
24 know, we're giving our seven days notice that
25 we are going to be scheduling a shade meeting.

1 MR. BARNEBEY: We would want to see where
2 we are and when we could have a shade meeting.

3 MS. DICKSON: Okay.

4 MR. BARNEBEY: And that may make it --
5 may push it off to a meeting in July, but
6 whatever --

7 MR. PIERSONS: So you wouldn't do that
8 meeting at the end of June?

9 MR. BARNEBEY: No. Not from what I've
10 heard. Not from what the discussions have
11 been so far.

12 MR. PIERSONS: Yep.

13 MR. BARNEBEY: You could have shade
14 meetings as often as you'd like, but based on
15 the discussion, I think what I'm hearing is --

16 MR. PIERSONS: Right.

17 MR. BARNEBEY: -- we reevaluate where
18 we're at after July 1.

19 MS. DICKSON: Okay.

20 MR. BARNEBEY: Anything else we want to
21 talk about? But I would say this, if we're
22 going to have a discussion after July 1, you
23 need to be thinking about what might be the
24 possible discussion topic --

25 MS. DICKSON: Definitely.

1 MR. BARNEBEY: -- as to what you're
2 doing, as to what you're willing to talk to
3 him about. That would be my recommendation.

4 MR. HEITZNER: Well, I think we should be
5 thinking about the things that he's going to
6 want, because I think we can probably come up
7 with a lot of those.

8 MS. DICKSON: Oh, sure, we can.

9 MR. HEITZNER: So that we can get those
10 off -- you know, determine whether we want --
11 you know, that's off the table, that's off the
12 table. I mean, we should know that in
13 advance.

14 MR. BARNEBEY: We should know what we
15 want and what --

16 MR. HEITZNER: And what we can
17 anticipate.

18 MR. BARNEBEY: See what he might be
19 willing to look at. I would agree with you.
20 And I apologize.

21 Okay. With that, if you want, we can
22 recess this session, the attorney/client
23 session, and then go back into the public
24 session. And I'll have a short comment to
25 make and then we'll go from there.

1 MS. DICKSON: Okay.

2 MR. BARNEBEY: No more confidential.

3 (Thereupon, this shade meeting was
4 concluded at 12:26 p.m.)
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2 REPORTER CERTIFICATE3
4 STATE OF FLORIDA)
5 COUNTY OF SARASOTA)6 I, SHARON F. BUTLER, Court Reporter,
7 certify that I was authorized to and did
8 stenographically report the foregoing
9 proceedings and that the transcript is a true
10 and complete record of my stenographic notes.11 Dated this 9th day of June, 2025.
1213
14 15 _____
16 SHARON F. BUTLER, Court Reporter
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