

**MINUTES OF MEETING  
LAKE ASHTON  
COMMUNITY DEVELOPMENT DISTRICT**

The special meeting of the Board of Supervisors of the Lake Ashton Community Development District was held on Thursday, December 5, 2019 at 11:30 a.m. at the Lake Ashton Clubhouse Ballroom, 4141 Ashton Club Drive, Lakes Wales, Florida 33859.

Present and constituting a quorum:

Mike Costello	Chairman
Borden Deane	Vice Chairman
Robert Plummer	Assistant Secretary
Bob Ference	Assistant Secretary
Harry Krumrie	Assistant Secretary

Also present:

Jillian Burns	District Manager
Andrew d'Adesky	District Counsel
Christine Wells	Community Director
Matt Fisher	Field Operations Manager
Numerous Residents	

**FIRST ORDER OF BUSINESS**

**Roll Call and Pledge of Allegiance**

Ms. Burns called the roll, established a quorum was present, and led the pledge of allegiance.

**SECOND ORDER OF BUSINESS**

**Approval of the Meeting Agenda**

Mr. Costello: We need a motion to approve the meeting agenda.

On MOTION by Mr. Deane seconded by Mr. Ference with all in favor the meeting agenda was approved.

**THIRD ORDER OF BUSINESS**

**Public Comments on Specific Items on the Agenda** *(speakers will fill out a card and submit to the District Manager prior to beginning of the meeting)*

Mr. Costello: Public comments, I only have one here but I believe that it does not have anything to do with the agenda today.

Ms. Cunningham: Yes it does.

Mr. Costello: I'm sorry I was told that it didn't. Dana Cunningham, if you could come forward.

Ms. Cunningham: This does have something to do with it. The main thing is the timing. On Sunday night the first email went out about this. It was 8:16 on Sunday night for this special meeting. Then this was followed by an update at 11:20 last night. The announcement was very vague as to what it was about concerning the restaurant lease. My question is to all of you why is this hurried special meeting necessary? This Board meets again on the 16<sup>th</sup> and every time it meets, our fiscally responsible Board that they claim to be, is another \$50 a person. I believe that this is the wrong timing to make such a hurried decision about a meeting. It should have been at the regular CDD meeting. I feel that you were very vague in your messages to the people that live here. There is not that big a crowd for something that is supposedly so important. I believe that this should be more due diligence for the members and the residents out here to hear the information.

#### **FOUR ORDER OF BUSINESS**

#### **Discussion Regarding Nini's Lease Agreement**

Mr. Costello: Discussion Regarding Nini's Lease Agreement. I'm going to turn it over to our attorney, Andrew.

Mr. d'Adesky: Pursuant to the last couple of meetings Supervisor Deane and I have been tasked to follow-up with the restaurant in terms of ensuring lease compliance and ensuring that we are getting the services that we engaged Nini's to perform pursuant to the lease agreement. A copy of the lease agreement is included in the agenda for everyone's review and for the public's knowledge, as well. About roughly a month ago Supervisor Deane and I had a meeting with Nini's. We were assured that they would be coming into compliance with the terms of the lease. However, as of today, it appears that there are several items that are not in compliance. Supervisor Deane has compiled a list and we actually just today received a letter that the grease trap that needs to be remedied within 24 hours or there is a possibility of \$500 per day fine for that violation. I'm going to have Supervisor Deane go over that in a second. Another important fact is that two weeks ago when we noticed this meeting, we were informed that an attorney was engaged by Nini's to investigate this to look at the lease. They said there were several issues and

asked for a copy of the lease. We transmitted that information to the attorney for Nini's who is here today attending the meeting. They suggested that they still desired to stay on here but also there are problems that are existing. I'm going to have Supervisor Deane run through that list.

Mr. Deane: The main thing is we still do not have all the insurance that is required by the lease. We have never received a copy of the workman's compensation insurance. That is in the lease and on the original lease. That is the main compliance that is not in accordance. Also I was told by Andrew that we were threatened a lawsuit, and I have no idea what we are being sued for to be honest with you, by Nini's attorney. There are things that we have tried to get done and we tried to go over with the manager and with Nini's. The important thing to me is that they do not want to work with Christine and that the main reason why the lease is so light as far as rent payment is due because I look at it as an amenity for our residents and Nini's should be cooperating with our management company to help us present events and have specials and everything else that goes along with this development in addition for them to make money. We want them to make money. We do not want them to lose money. The big problem is they are upset about losing the exclusive catering. They lost the exclusive catering by a vote of this Board. We were losing income. We had people who would not rent the hall if they were required to use Nini's as the caterer. This is why we changed the lease, which is completely within our rights. It states in the first page of the lease that we can make the adjustment for the exclusive catering at any time. In addition to that, the biggest part that bothers me is the working relationship that we don't have. I met with the owner of Nini's in February of this year and discussed the debacle that took place at last year's New Year's Eve party with no alcohol and things of that sort. We asked at that time if we would have a bartender for this New Year's. As of today we do not know if we have a bartender for New Year's. We were told in February that we would. Now Nini's is scheduling events in the restaurant that conflicts with events that the development is having. I don't believe that is right, I'm sorry. These are some of the problems that we have had ongoing. It is my recommendation, and I hate it, my decision that we must give Nini's a termination of the lease, a 90 day termination and move on from there.

Mr. Costello: Please refrain from the oh's and ah's. We really don't need it at this time. Thank you.

Mr. d'Adesky: This is not a back and forth. At the end you can comment, but there are no rebuttals.

Mr. Costello: Andrew, do you want to continue?

Mr. d'Adesky: I will just read through the provision that is relevant to this section. What he is referring to is Section 4.4, it is included in the lease, which is part of the addendum which is the early termination clause, and states notwithstanding anything to the contrary contained in this Agreement, either party hereto may, without cause but only upon ninety (90) days prior written notice to the other party, terminate this Agreement at any time during the Agreement Term. That means with or without cause for any reason whatsoever or with no reason. Either party, the restaurant or the CDD can terminate the lease. That is the relevant provision. It is on page 9. It is up to the Board of Supervisors to choose whether or not to elect to exercise that option or whether to respond in any way. Supervisor Deane has a suggestion and if it is a motion, it needs to be voted on.

Mr. Deane: I will make a motion that we terminate the lease from Nini's.

Mr. Costello: Second.

On MOTION by Mr. Deane seconded by Mr. Costello with two ayes and three nays, terminating the lease with Nini's failed.

Mr. d'Adesky: At this time is there any other action that the Board would like to take in regards to the restaurant.

Mr. Deane: We signed a lease, I believe it was in June a year ago.

Mr. d'Adesky: That is correct.

Mr. Deane: We are now December 5<sup>th</sup> and they are still not in compliance with that lease. How long are we going to go? That doesn't make any sense to me, I'm sorry.

Mr. d'Adesky: June 12<sup>th</sup> is the date.

Mr. Plummer: The only thing we are not in compliance with is the Workman's Compensation policy that they are supposed to provide, is that correct?

Mr. Deane: That is correct at the present time. The part we had to get the lawyer to send them a letter for the other insurance and 20 minutes after they got the letter they

gave us that insurance. Why didn't they give us all the insurance at the same time? I have no idea.

Mr. Plummer: Obviously I can't answer that. I just want to ask if that was the major issue.

Mr. d'Adesky: If there is no proposed action, just comments we can address those. I don't think any Board action is necessary for that. We will continue to be in communication with the attorney for Nini's and continue to discuss with the Supervisors. If anybody has any questions, obviously you can contact me directly.

Mr. Krumrie: I would like to make a proposal. I propose that somebody else be appointed to oversee the restaurant because we have almost two years of unsuccessful relationship, if you will. To place it all on Nini's is wrong. It also belongs to us. Until we get somebody in there who can work with them, we are not going to accomplish very much. All we are doing so far is wrong.

Mr. Costello: Back in January I intentionally set it up with way that one person would deal with them. The reason being is prior restaurant owners have complained that is was impossible to work with five people and I could understand that. If you are working with one person, and personally I think Borden has gone and spoken with her and come back and defended her in instances, but by the same token she turns around and I saw her the night before, never said a word and the next day I get a phone call we are being sued. She couldn't say something to me the night before? I just see where there is an ability on her part or she doesn't take the ability to work with people. I find it very hard and I want to give her somebody she is going to choose, I think it is somebody we should choose.

Mr. d'Adesky: Is there a motion to delegate a particular individual? I will say the designated individual on top of the other concerns of dealing with five chiefs, there are Sunshine concerns if you have five people dealing with one individual person. Having one single person is what we do for every single District when we have an issue that needs to be dealt with actively.

Mr. Costello: That was my intent in the beginning. I wasn't worried about Sunshine Laws, I'm just saying I don't think that it was going to have any effect on Sunshine Laws, but my feeling was that five different people would go to her five different times and not all at once and she would be answering to five different people. Personally, I don't see

where anybody should be able to pick and choose. I have worked with people that I really didn't enjoy working with through all my years of working, but by the same token, I don't think that that is the problem. I don't think it is the individual. I think for some reason I don't know, Christine and her, I don't know is there any coordination whatsoever on your part, Christine?

Ms. Wells: There was. I don't want to comment on that.

Mr. d'Adesky: I don't think we should be doing that. Is there a motion to delegate another individual?

Mr. Plummer: First of all, when we divided up the responsibilities, the Chair Mike made that decision to that, which I think was a very good thing to do exactly what he wanted to do. There was never a motion to put anybody in those chairs to start with. It was done by the Chair. I don't know if you are trying to reverse that situation?

Mr. d'Adesky: It was voted on.

Mr. Ference: Borden has that experience in restaurants.

Mr. Costello: That is why that was done.

Mr. Ference: As it should. He was the only one on the Board.

Mr. Plummer: I apologize, I forgot we voted on it. Borden, do you feel like you can continue to be able to work with them?

Mr. Costello: Once again, from the outside I don't need the comments. We can hear them up here.

Mr. Deane: I can try and work again. I'm not against working with anybody. I'm not against anyone. I want Nini's to succeed, and I have told that to them on several occasions, but there has to be cooperation. It can't be a one way street, I'm sorry. It is just like when the insurance came to us, it is very upsetting when every time you see someone and you ask them about the insurance the day that Andrew and I met with the owners of Nini's, the last thing I said to her was, will you send me the insurance. She said yes. Never received it. Andrew had to send a threatening letter and 20 minutes later I got a copy of the insurance. It just doesn't make sense to me, I'm sorry, as a businessman, I had 35 years in the restaurant business where I leased space all the time and I never had problems or questions like this before.

Mr. Ference: So what you're saying is they can't work with you?

Mr. Deane: I'm not saying they can't work with me.

Mr. Ference: They choose not to. So, is that motivation then for us to replace you or to replace them? What are you arguing to do?

Mr. Deane: I'm not arguing to do. I made my recommendation. We were threatened to be sued and I still don't know what we were to be sued with. To me that is automatic termination of a lease.

Mr. d'Adesky: If the Board wishes to proceed with a re-delegation, might be helpful in terms of a different perspective and having another Board member bring a fresh perspective and make a good faith last attempt to remediate the situation.

Mr. Ference: Before we do that, why don't we find out what this suit is about?

Mr. d'Adesky: We don't have that information right now.

Mr. Ference: Why not?

Mr. d'Adesky: Because it is not filed. Like the last conversation that I had with their attorney, it was it was not ready to file yet.

Mr. Costello: Right now we just voted against terminating the lease so what is going to happen now is there is a good chance they are going to continue with the lawsuit.

Mr. d'Adesky: Mike, that is speculative, I don't know if we should really go there.

Mr. Costello: I'm just saying that could happen.

Mr. d'Adesky: I think if we are going to make a good faith attempt we should make the delegation.

Mr. Plummer: Since they are right here, why don't we ask them questions and have them ask us questions?

Mr. d'Adesky: If we do that we have to open it up for everybody in the audience to make comments and questions in the same manner that they do.

Mr. Ference: Let's do it then. It is very significant and important moment for the whole community, so let's get the community involved.

Mr. d'Adesky: Is that the direction of the entire Board? I would advise against it, but once again, that puts a lot on the record. It gets everybody up here and once again, we have an extremely long meeting.

Mr. Costello: On the advice from counsel I would say that we should not allow that.

Ms. Burns: I think if we designate somebody to work with Andrew and Nini's counsel.

Mr. d'Adesky: That would be the most productive and efficient way to do it.

Mr. Costello: You have to remember that if we are sued by anybody it goes to the residents in the community. My interest is in the residents in the community, not any individual company or anything else.

Mr. Ference: Andrew, can you speculation any possible area?

Mr. d'Adesky: I'm not going to speculate on this on the record, Bob. If we want to talk about this afterwards, or I can talk with you about it, but we don't have anything right now. The attorney is, his words, was not right for filing right now. That was the word that I received from him.

Mr. Ference: Borden, with your experience what would you see is an area?

Mr. d'Adesky: I don't think it is helpful to speculate on this. It is just speculation.

Mr. Ference: So, we just wait and see.

Mr. d'Adesky: Like I said I think that suggestion to appoint somebody to work with the restaurant and will have to work in conjunction with their attorney. We will sit down with them. We will sit down with Nini's. I will be there. Their attorney will be there and we will have a conversation.

Mr. Deane: I would be willing to do it if you want me to do it, but if you want somebody else to do that is fine, too. It doesn't make any difference to me. I'm just trying to look out for the residents. I think the restaurant is an amenity to this development and it should be for the residents. That is my opinion and I told you what we have been running into. That is why I gave the recommendation that I gave.

Mr. Ference: I think Harry's recommendation, we have nothing to lose if we take this next step by replacing someone from the Board that may work more congenially with the restaurant. What will it hurt to do that as a step?

Mr. d'Adesky: Just a matter of time. That is the only thing. It extends the potential 90 day clock. That is it.

Mr. Ference: Harry, what do you feel about that?

Mr. Krumrie: I just believe that we should try something different.

Mr. Ference: Amen.

Mr. Krumrie: Whatever that might be.

Mr. Ference: That is what I said. What do we have to lose? We look like we are going down a slope so what do we have to lose on the way down?

Ms. Burns: Do we have a volunteer?

Mr. Ference: I make a motion that we have Harry appointed.

Mr. Plummer: Before I continue, first of all, Borden, thanks for all that you have done up to this point. I think it is very good, the work that you have done, etc. However, I kind of agree with Bob that a bright set of eyes might not be a bad thing in the long run. I will second that motion.

Mr. Ference moved to appoint Supervisor Krumrie to work with District Counsel and Nini's on resolving issues with the restaurant and Mr. Plummer seconded the motion.

Mr. Ference: Borden, this is not to diminish what you have accomplished through the years. I don't mean to diminish and make small of your efforts. This is just an opportunity to state what might be an ultimate conclusion. For our trying to state that by this appointment, so please take no offense in trying to replace you. Thank you.

Ms. Burns: We have motion and a second.

Mr. Costello: Are there any other questions on the motion? One of the things I know is, Harry, you go to the restaurant quite often. My question becomes this because I know that when you deal with somebody all the time you develop a relationship. Do you feel that you can be 100% objective?

Mr. Krumrie: Absolutely. Bad question.

Mr. Costello: No, it isn't.

Mr. Krumrie: You are questioning my integrity.

Mr. Costello: Believe me like I said myself, when I deal with somebody all the time, I know that my objectivity is not going to be what it should be.

Mr. Ference: So, if you don't deal with him at all that is going to be less objective? Of course not.

Mr. d'Adesky: Gentlemen, there is a motion and a second so we should vote.

Mr. Costello: All in favor.

On VOICE VOTE by Mr. Ference seconded by Mr. Plummer with four in favor and one opposed; the prior motion was approved and passed 4-1.

Mr. d'Adesky: That resolves that issue and there are no other issues to talk with that having been done, unless there is any business that the Supervisors have or any other Supervisors requests. We should have added to the agenda a second public comment period which is a general public comment period. Anybody from the public can comment on anything whether it is on the agenda or not. At this time if anybody has any comments whether it was on the agenda, off the agenda on anything feel free to come up and speak.

## **FIFTH ORDER OF BUSINESS**

## **Public Comment**

Mr. Edward Brandt: Good afternoon, gentlemen and lady of the Board. My name is Ed Brandt and I'm the attorney for Nini's Café on behalf of Sandra Joyner. I will speak briefly here. As you can tell I lost my voice. Not good for the job, but good for if you have to listen to me. That being said, we are not necessarily, and I spoke to Mr. d'Adesky, and this is not a case that we are running out with a mad dog approach. We are not here just to sue. We would like to work out a peaceful, hopefully mutually beneficial resolution to the situation as it is right now. Right now it is not. I'm seeing a lot that is said and hearing a lot of what is said amongst people here in the audience, as well as the people on the Board up here. I'm here for one reason today, only to collect information. I'm here to interview anyone. I'm not here to take depositions or any of that nature or came here to challenge the Board's decision. When I spoke with Andrew, we had a great relationship. We were talking. He sent me copy of the lease. When I speak on behalf of Ms. Joyner and Nini's Café, she doesn't want to leave either. This isn't an issue of her wanting to say after putting all her hard work, time and money into this business to say, oh, I am done. Mr. Krumrie, I look forward to talking to you hopefully by way of Andrew. I would like to get this worked out. I always told Andrew that our position is not to immediately file, and quite frankly it has been thrown around too much by the Board, litigation, litigations, and lawsuits and a lot of speculation is going on here. I can assure you all at this point, including the audience and the Board we are not posed to immediately file a lawsuit. We would have done it already, but we haven't. We want to work this out. We want to come to the table, peace offering sort of speak as opposed to our swords drawn. I'm pretty sure that Andrew and I, and hopefully Mr. Harry Krumrie, can come to that agreement. She likes being here. She loves the residents. The residents, what I can

gather from the response, seem to like her alright. I may be wrong but I think I'm pretty inside the ballpark and that is ok. At any rate I'm just here to speak my peace. I appreciate the time. Is this end part of the discussion for today about this issue?

Mr. d'Adesky: Yes, we are done.

Mr. Brandt: I have to apologize my paralegal is in England. I have an office in Lakeland, and as any attorney knows, without a paralegal is like a surgeon without hands. It is very hard to do two jobs, so I did want to be here today because number one, it is my job and number two, I want to help come to a hopefully agreement that is both beneficial to both sides equally and allow for the continuation of their business on Lake Ashton's property. Everything is kind of take a step back and breathe, put our swords away and come to a peaceful resolution. That is kind of all I have and thank you for your time. Thank you.

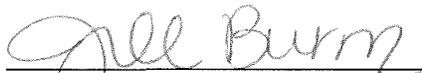
A resident: Thank you, but you are leaving out one particular necessary step. It has been said several times that Christine and Nini's don't always see eye to eye. I think that particular difference needs to be ironed out. I have heard it since they came, since Nini's arrived that there has been some sort of confusion between who is in charge of this, what and where. I think it would be very good if we had somebody sit down and talk to both Christine and Nini's and find out exactly where they are going to take their instructions. Would you try and do that? Thank you.

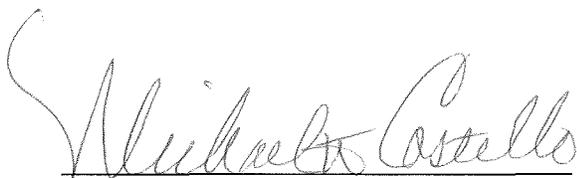
Mr. Costello: Are there any more requests to speak? Ok, adjournment is in order.

**SIXTH ORDER OF BUSINESS**

**Adjournment**

On MOTION by Mr. Ference seconded by Mr. Plummer with all in favor the meeting was adjourned.

  
Assistant Secretary/Secretary

  
Chairman/Vice Chairman