

**SOUTHWEST LICKING COMMUNITY WATER & SEWER DISTRICT  
P.O. BOX 215, ETNA, OH 43018**

**SPECIAL BOARD MEETING MINUTES  
August 5, 2019**

**1. OPENING**

The August 5 2019 Special Board Meeting of the Southwest Licking Community Water and Sewer District was called to order by Mr. Fox at 1:00 p.m. The pledge of allegiance was led by Mr. Fox. Mr. Fox, Mr. Kretzmann, and Mr. Carlisle were present at roll call. Also present were CJ Gilcher, Kathy Killen and those members of the public who signed the August 5, 2019 sign-in sheet.

**2. ADOPTION OF AGENDA**

Mr. Carlisle made a motion, second by Mr. Kretzmann, to approve the Agenda as presented. Upon Roll Call vote, all voted aye. Motion carried. Agenda adopted.

**3. APPROVAL OF MINUTES**

There were no minutes to approve at this meeting.

**4. PAYMENT OF BILLS**

There were no bills to approve for payment at this meeting.

**5. COMMUNICATIONS**

There were no communications to report.

**6. PUBLIC COMMENTS**

There were no public comments at this meeting.

**7. GENERAL MANAGER'S REPORT**

Mr. Gilcher had nothing to present at this meeting.

Mr. Carlisle moved to approve Amendment No. 1 to development agreement with Westport Homes for Broadmoore Commons Phase 2 as presented by legal counsel, Mr. Fox second. Upon Roll Call vote, Mr. Kretzmann abstained, Mr. Carlisle and Mr. Fox voted aye. Motion Carried

***SOUTHWEST LICKING COMMUNITY WATER & SEWER DISTRICT***

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69 Zellers Lane Pataskala, Ohio 43062  
Phone (740)927-0410 Fax (740)927-4700

Mr. Carlisle presented a resolution for the Board's consideration and approval:

**RESOLUTION:**

Mr. Carlisle made a motion, second by Mr. Fox.

**R 2019-044 RESOLUTION**

- 1. WHEREAS, WESTPORT HOMES, INC. EXECUTED A DEVELOPMENT AGREEMENT WITH THE SOUTHWEST LICKING COMMUNITY WATER AND SEWER DISTRICT (THE "DISTRICT") ON OR ABOUT AUGUST 28, 2018 (THE "AGREEMENT"). THEREAFTER, WESTPORT ASSIGNED SAID AGREEMENT TO D.R. HORTON-INDIANA, LLC, TO WHICH ASSIGNMENT THE DISTRICT CONSENTED, PROVIDED, HOWEVER THAT WESTPORT REMAINS OBLIGATED TO THE DISTRICT IN THE EVENT THAT D.R. HORTON-INDIANA, LLC FAILS TO PERFORM (WESTPORT AND D.R. HORTON-INDIANA, LLC HEREAFTER COLLECTIVELY REFERRED TO AS "WESTPORT"); AND**
- 2. WHEREAS, SAID AGREEMENT REQUIRED WESTPORT TO CONSTRUCT CERTAIN POTABLE WATER AND SANITARY SEWER FACILITIES, INCLUDING OFF-SITE AND ON-SITE FACILITIES, TO SERVE THE BROADMOORE COMMONS PHASE 2 SUBDIVISION (THE "PROJECT") IN COMPLIANCE WITH THE DISTRICT'S RULES AND REGULATIONS, STANDARD DRAWINGS AND CONSTRUCTION AND MATERIAL SPECIFICATIONS, AS WELL AS DESIGN PLANS APPROVED BY THE DISTRICT; AND**
- 3. WHEREAS, WESTPORT FAILED TO CONSTRUCT CERTAIN OF SAID PROJECT IMPROVEMENTS, INCLUDING CERTAIN OFF-SITE AND ON-SITE SANITARY SEWER FACILITIES, IN COMPLIANCE WITH SAID REGULATIONS, SPECIFICATIONS, AND PLANS (THE "NONCOMPLIANT FACILITIES"), HAVING FAILED TO CONSTRUCT SAID FACILITIES IN COMPLIANCE WITH THE NECESSARY SLOPE/GRADIENT REQUIREMENTS OF THE DISTRICT, AS HIGHLIGHTED ON THE ATTACHED EXHIBIT A; AND**
- 4. WHEREAS, WESTPORT NOW SEEKS CONDITIONAL ACCEPTANCE OF SUCH PROJECT, INCLUDING SAID NONCOMPLIANT FACILITIES, PURSUANT TO THE DISTRICT'S RULES AND REGULATIONS AND SAID AGREEMENT, AND THE DISTRICT IS**

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**WILLING TO GRANT THE SAME CONTINGENT UPON THE FOLLOWING:**

- 1. THE DISTRICT HEREBY GRANTS CONDITIONAL ACCEPTANCE OF SUCH PROJECT, INCLUDING THE NONCOMPLIANT FACILITIES PROVIDED THAT:**
  - 1.1 WESTPORT PROVIDES FINAL, CORRECT AND ACCURATE "AS-BUILT" PLANS;**
  - 1.2 WESTPORT EXECUTES AN AMENDMENT TO THE DEVELOPMENT AGREEMENT WHICH EXTENDS THE TERM OF SUCH AGREEMENT RELATED TO SAID NONCOMPLIANT FACILITIES FOR A PERIOD OF EIGHT (8) YEARS AFTER FINAL ACCEPTANCE OF THE "PROJECT", INCLUDING EXTENDING FOR SUCH PERIOD OF TIME THE HOLD HARMLESS, INDEMNIFICATION PROVISION SET FORTH IN SECTION 4, THE WARRANTY PROVISION SET FORTH IN SECTION 6, AND THE MAINTENANCE BOND PROVISIONS SET FORTH IN SECTIONS 7.2.3 AND 15.1. FURTHER, SUCH AGREEMENT SHALL BE AMENDED TO PROVIDE THAT WESTPORT, FOR A PERIOD OF TEN (10) YEARS AFTER THE DATE OF SAID AMENDMENT, SHALL AGREE TO PROVIDE VIDEO CAMERA REVIEW AND CLEANING/JETTING OF THE NONCOMPLIANT FACILITIES. SUCH VIDEO CAMERA REVIEW AND CLEANING/JETTING SHALL BE ACCOMPLISHED AT LEAST ANNUALLY, OR MORE OFTEN, AT THE DISCRETION OF THE DISTRICT, IF THE DISTRICT HAS REASON TO BELIEVE THAT SAID NONCOMPLIANT FACILITIES ARE CAUSING, OR CONTRIBUTING TO, SANITARY SEWER FLOW PROBLEMS WITHIN THE DISTRICT'S SANITARY SEWER SYSTEMS. ALL SUCH VIDEO CAMERA REVIEW AND CLEANING SHALL BE AT THE EXPENSE OF WESTPORT. FINALLY, WESTPORT SHALL REIMBURSE TO THE DISTRICT ITS ATTORNEY'S FEES INCURRED WITH RELATION TO THE NONCOMPLIANT FACILITIES, CURRENTLY ESTIMATED TO BE BETWEEN \$1,000 AND \$2,500.**
- 5. IT IS FOUND AND DETERMINED THAT ALL FORMAL ACTIONS OF THIS DISTRICT CONCERNING AND RELATING TO THE PASSAGE**

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**OF THIS ORDINANCE WERE PASSED IN AN OPEN MEETING OF THIS DISTRICT AND THAT ALL DELIBERATIONS OF THIS DISTRICT AND OF ANY OF ITS COMMITTEES THAT RESULTED IN SUCH FORMAL ACTION, WERE IN MEETINGS OPEN TO THE PUBLIC, IN COMPLIANCE WITH ALL LEGAL REQUIREMENTS INCLUDING SECTION 121.22 OF THE OHIO REVISED CODE.**

**UPON ROLL CALL VOTE, MR. KRETZMANN ABSTAINED; MR. CARLISLE AND MR. FOX VOTED AYE. RESOLUTION NO. 2019-044 WAS APPROVED.**

**8. OFFICE MANAGER'S REPORT**

Mrs. Carrelli was not present at this meeting.

**9. ATTORNEY'S REPORT**

Mr. Albers was not present at this meeting.

**10. EXECUTIVE SESSION**

There was no executive session at this meeting.

**11. TRUSTEES' COMMENTS**

There were no Trustees' comments at this time.

**12. ADJOURNMENT**

Mr. Carlisle made a motion, second by Mr. Fox that the meeting would be adjourned.  
Upon Roll Call vote, all voted aye.  
The meeting was adjourned at 1:00 p.m.

ATTEST:   
LAWRENCE KRETZMANN, SECRETARY

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740-927-0410

SPECIAL BOARD MEETING

August 5, 2019

SIGN BELOW:

NAME

ADDRESS

PHONE

Scott Douglas

Brentmore  
Phase 2

614-218-6677

Bill Douglass

961 Ruskin Dr Elyria 43068 614 446 1231

Cornie Klenn

PO Box 991 Pataskala 43062