

Minutes From Pool Committee Meeting – July 6, 2018

Meeting was called to order at 4:10 pm. Quorum was met with Gail Meyer, Rashid Ishaq, and Mario Singer attending in person, and Gail Cummings attending via Facetime. Phone conference attendance was made available to all homeowners. Three board members, Karen Feller, Joaquin Pujols, and Rashid Ishaq attended the meeting in person. Susan and Paul Levine, Ron Beck, Steve Feller, Jack Circle, Jim O’Sullivan, Wade Jabour, and Suzy Fried were the homeowners who were present during the meeting. Attendance was not noted for those who joined remotely. In a professional capacity, Tom Little, the south deck project manager, Steve Sinclair, the project engineer, and Lynn Bender, the landscape architect were present.

The meeting began with a statement of purpose – **hearing a presentation from Tom Little, the south deck project manager, hearing his preferred construction company for the project, and voting on whether or not to accept this company and recommend it to the Board of Directors.**

Tom followed the agenda by beginning an explanation of the approval process. He explained that whenever you have a variance situation, there are four steps to the process, beginning with Environmental Advisory Board (EAB) and Special Conditions (SC) groups; second is Planning and Zoning (P&Z); third is town council; fourth is getting the actual building permit. But because we are dealing with sea wall restoration, we also have to get a Florida Dept. of Environmental Protection (FDEP) permit. To get this permit, you have to get a zoning letter from Boca Raton (BR). The city of BR will not give us a zoning letter until we pass through the EAB and SC (step 1). Once you get the approval from FDEP, it takes 90 days to get an FDEP permit. That can run concurrently with the permit process after town council approval.

We are now on our 7th and 8th resubmissions with EAB and SC. The first submission was in October, 2017. They responded with comments, we resubmitted and it took them 6 weeks to respond. This process continued and Tom gave an example of how the sea wall restoration was always on the plans, but they didn’t note it as part of the variance. The coastal engineer explained to EAB that work on the wall was only a repair and not a rebuild, but they insisted that it needed to be applied for as part of the variance. So a number of the resubmissions dealt with this, and with the narrative format in which they wanted this element presented.

Tom recounted their most recent meeting with Nora Fosman, Ingrid Allen, Keith Carney, which was June 20th and went very well, There were four items they wanted to have done: 1) include the sea wall in the narrative; 2) get Don Richardson from Ecological Consultants to update the management report; 3) resubmit the structural drawings with the notations they asked for; 4) change standard architectural notation on the plans regarding sea wall to a separate sheet narrative explaining the change. These requests were all satisfied and resubmitted on June 29th.

When moving through the agenda and addressing the expected timeline, Tom was hopeful that we would move along in the process, but was understandably unable to predict when approval would be given for this first, arduous process. His hopes and expectations are that we get through the entire process before the end of the year, but he is unable to predict.

Moving on to the next agenda item, delaying start until May, 2019, Tom began by discussing the rising cost of construction, and that prices not only rise from year to year, but within a year. At this point prices are rising 10-15% YOY. **So a benefit of signing with a contractor now is that they will hold the agreed price once signed.**

Tom reviewed the prices submitted by each of the three companies asked to bid and indicated that **Spado Construction (owned by Orlando Spado) had the best price, especially because they gave a guaranteed maximum price with no extra charges**, which Brosseit did not. Brosseit's bid was based on allowances, which means that there would likely be additional charges which would push the final price higher. SR Construction gave an initial bid, but did not respond to subsequent bid requests. He then recounted an experience he and Steve had with Spado, who at that time was with a company called Pool Tek of the Palm Beaches. **He said his experience with him was excellent and Steve concurred; they finished on-time and under budget, and in Palm Beach which also has a challenging regulatory environment. He said that Spado at that time had a partner, but that he had recently formed his own company called Spado Construction. He also indicated that prices had been negotiated to arrive at the lowest price. Tom made his recommendation to go with Spado Construction.**

The question and answer period began with Paul Levine opening a discussion about potential start dates and costs associated with various timing assumptions. Turtle season was brought up and a division of work on the sea wall versus the pool was discussed. Karen Feller asked a clarifying question about whether we could work on the sea wall and then separately work on the pool, and Tom Little confirmed that this would be possible. She also asked for clarification about whether or not there was an issue with the sea wall potentially collapsing, and Steve Sinclair indicated that the sea wall should be looked at as two separate sets of constraints. The east facing side could only be worked on between November 1st and February 28th of any given year because it faces the dunes and the dunes cannot be disturbed in any way (vibration, noise, etc.) during turtle season. The inner, or west/pool facing side could be worked on at any time of the year. He did not indicate that the wall would collapse, only that each side had different timing rules. Rashid suggested starting work on the pool in May, after the winter season, beginning on the pool and inner sea wall, and then concluding the project by starting the outer sea wall on November 1st. Tom said he would confirm this by going to the building department and getting a courtesy review (since we don't have a contractor on board at this point), so that we would know any issues they may have with these ideas ahead of time and this would hopefully streamline approvals as we move through the process. Steve Sinclair concurred.

Jim O'Sullivan asked for comment on whether or not we could repair the sea wall without touching the pool. Steve Sinclair opined that there is such a tight amount of space between the

pool edge and the sea wall edge that work would be very difficult, and that there may even be an OSHA restriction against having workers do this type of work in such a confined space.

Jim O'Sullivan then asked for comment as to whether or not our decision to change the shape of the pool impacted our timeline at all in terms of variance or permits. Steve Sinclair indicated that the biggest concern for the city of Boca Raton is that we are seaward of the coastal construction line, and their laws require that any work done in this space would need a variance. Therefore, **the shape of the pool is irrelevant in terms of needing a variance for the project.** Wade Jabour sought to clarify, asking whether or not adding square footage to the pool was a factor in needing a variance. Again, Steve Sinclair confirmed that it is **the location of the project not the design of the pool, that triggered the need of a variance.** Karen Feller remarked that there was misunderstanding in the 3000 S community, in that it was commonly thought that the new footprint of the pool was responsible for our having to go through this lengthy variance process. Steve Sinclair commented that **even repairing the sea wall alone would require a variance.**

Paul Levine inquired about the length of time it would take to do the work in two steps. Tom answered that it would take 4-5 months to do the pool, and the sea wall would take approximately 6 weeks. The contractors estimated 6 months for the entire job. Paul then asked for clarification on logistics. Steve indicated that contractors would work with 3000 S committees to work things out, but that contractors would essentially take over the whole south end of the parking lot, starting at the entrance.

Tom then volunteered some additional information about Spado, particularly that they "self perform" most of the work. In contrast to Brosseit who subcontracts much of the work to others, **Spado does not have to rely on subcontractors to get work like concrete restoration and pool work done** and, as such, is better able to meet schedules.

Ron Beck circled back to Tom's earlier mention of Spado having recently formed his own company after being a partner at Pool Tek, and wanted to know how long Spado has been in business. Given the answer of 4 months, Ron felt this was risky and expressed skepticism that Spado would be able to have all the people needed to perform the work. Tom explained that some of the workers from Pool Tek came to work for Spado. Ron called on his own experience, saying that he did this type of work for 40 years in Indianapolis and that things like this don't work out. His position was that you don't do business with someone who's in business for 4 months, who makes promises that they can't keep. Tom then reiterated his experience with and endorsement of Spado, saying that it was Orlando Spado who was doing the work he cited, not his partner Frank. Tom said he knows Spado for a number of years, he trusts him, says his numbers are real, and that he believes that he can do the work as promised. But said it was our call. Steve then asked if he could gain from Ron's experience and asked him what exactly he felt was the pitfall. Ron answered that he could go out of business and not finish the job. Paul Levine asked if the job could be bonded, and Tom replied that it costs money to be bonded. Paul asked if Tom recommended that Spado be bonded and Tom did not. Ron then shared that

he doesn't know anybody in their right mind who would do what is being suggested. Rashid suggested having certain requirements made of Spado.

Ron then turned the discussion to the overall cost of the project, and wanted to know what the original estimate was for the project. Karen confirmed that it was \$900,000 (\$650,000 + \$250,000 contingency). Rashid pointed out that this estimate was made a couple of years ago and given increases, we are still in the same ballpark. Susan Levine asked the cost of having the job bonded, which Tom estimated at .075% (this would be less than \$10,000). Then Ron asked if Spado was bondable. Mario Singer sought to clarify whether Ron was questioning Spado's experience and implied that he's the same person, just under a restructured business entity. Ron reiterated his concern as to whether Spado was bondable. Karen Feller asked Tom to provide us with references for Spado and Tom said he would.

Paul Levine asked Gail Meyer what the all-inclusive total cost of the project would be. Gail did not know at this point, but said she would follow up with Joaquin to try and put a reliable estimate together. In response to various items being called out she pointed out that in the past, the community has had the luxury of having Phil McCafferty and Gene Hanfling act as project managers for various projects at no cost to us, but for this project we do not, and this alone added significant cost to the south deck project. Karen pointed out the benefits of having a formal project manager and mentioned that she believes that about \$150,000 has been spent so far on the project in total. The north deck was referenced in terms of escalated costs with hopes that this would not happen on the south deck project.

Discussion then segued into what happened on the north deck, with Tom saying that we may be paying for the sins of the past in the approval process. He has been reminded 3 or 4 times by the city that we cannot do what was done in the past (dune infractions with related fine). Discussion ensued about the problems encountered at that time for the benefit of those who were unaware of it.

Jim O'Sullivan expanded on how sensitive the city can be by asking for comment about homeowners visiting and contacting city officials to give input, ask questions, and otherwise interfere with the process. He said that as an attorney, he has a problem with an individual homeowner contacting city officials on behalf of the association. He cited people calling Nora, visiting Nora, and asked for comment on what we can expect to happen from that. Joaquin interjected to say that every time someone calls the city to ask a question they send an inspector here and this costs us time and money. Jim then elaborated that in the past we've had anonymous people call to ask if we got the proper permits for some dune plantings; and the fine we recently got was because someone from here called the city instead of taking it to the duly elected board of directors to have the situation answered or remedied. These types of calls communicate disharmony and present a legal issue. Steve Sinclair's comment was that the city has so many projects going on at once that one point of contact is preferable, and that multiple callers will create a nuisance and slow down the process. Wade Jabour suggested that homeowners be notified not to communicate with the city at all. Jim stated that by statute,

homeowners are not allowed to act on behalf of the association. The flip side of that is that if you do and you cause the association damages, you're responsible. So if someone goes to the city and causes us to get a fine which we wouldn't ordinarily have gotten if the problem had been address to the association directly, the homeowner can be sued. So the word needs to get out about that.

Ron then posed the question about whether or not this was the right time to do the pool. He shared with the room that the pool is fine and that he had a wonderful time in the pool this weekend. Jim mentioned that he was having a wonderful time in the garage until a piece of cement fell on his head. Mario pointed out the return on investment that would be reaped from their expenditure on the pool. Jim reminded everyone that the north deck went from a \$1MM to a \$3MM project because it was always given "band-aid" fixes in the past and that we have to learn from that. If we postpone, we may find ourselves with a leak and then our pool will be shut down. Mario added that the pool was already approved and that it was going forward, but Ron reminded that it was out of price and out of budget.

Karen asked about the plantings that were done to change the path out to the beach, wanting to know the circumstances. Lynn Bender recalled that it was mandated by the city. Jim pointed out that a homeowner contacted the city about this, the city opened an investigation, made us hire a consultant, and the consultant was the one who told us that we had to do it in the first place. So a lot of time and money can be saved if questions are directed to the board and not to the city.

Wade asked if we're allowed to move the beach stairs from where they are now to where they used to be. A long discussion ensued which basically netted out to the fact that the window for doing that ended when the north deck project ended. Since they weren't done then, they have to be part of the variance we're applying for now. They can't be moved, or new ones installed until we have our permits. Paul stressed that we should do things the right way, and harked back to Mario's point about ROI.

Gail called for a motion on selecting a contractor. Rashid Ishaq made a motion as follows:

"I'd like to make a motion that this committee recommend Spado Construction to act as our general contractor for this pool project. And that contract be awarded in the amount of \$1,050,000 if the contract is signed and work commences before the end of 2018, or \$1,165,000 if the contract is signed and commences on or before May 1, 2019. And that the contractor will complete the entire job within the time schedule agreed upon and exactly as the specifications are outlined, regardless of any known or unknown problems that might arise for the contract amount."

Mario Singer seconded the motion. All committee members present voted yes. Gail Meyer formally accepted Tom Little's recommendation.

Paul Levine requested that at the next BOD meeting a total project cost including all elements is presented to homeowners. Ron Beck asked for additional information to be provided about Spado including their corporate form (LLC, etc.), insurance, address, D&B rating, etc. before making any final decisions.

Karen Feller and Wade Jabour both expressed their concern about the way the south deck area looks now, and discussion followed about how things could be made to look better. Specifically cited was the excavated area between the glass and aluminum railings, the stairs, the furniture, and the umbrellas. Tom suggested categorizing the stairs as maintenance as opposed to replacement, but Susan said this was not possible. Wade acceded to this but wants the walkway to the beach cleaned up citing danger of tripping on the hose, the pipe, and the concrete slabs. He compared our property to neighboring buildings and feels ours is substandard. He reported that on Thursday there was a flying umbrella, which Rashid also saw. He wants new chairs and umbrellas and Karen wants new tables. He also wants pool/beach service like every other building has. It was agreed that we should get new lounge chairs which would ultimately be used on the beach after construction. We would also get new tables and umbrellas. It was further decided that once we are approved, moving the stairs will be among the first things done. Steve Feller pointed out problems with the gate between the parking lot and the lounge area. It was decided that the pool committee would write a proposal to the board to spend money (\$20,000-30,000) to fix the area up prior to commencement of construction.

Meeting was adjourned at 5:20 pm