

Memorandum

To: Board of Supervisors,
Cypress Shadows Community Development District

From: Gregory L. Urbancic, Esq.

Date: November 26, 2018

Re: General Election Vacancies and Filling of Board Seats

At the request of the Board of Supervisors (“Board”), I wanted to provide a brief summary of the election process for purposes of the upcoming meeting of the Board. The Florida Statutes provide for the commencement of a transition process for the Board when certain thresholds are received. Pursuant to Section 190.006(3)(b), Florida Statutes, after the sixth year of a community development district’s existence and once the district reaches 250 qualified electors, the Board begins to transition by having qualified electors elected to the Board by qualified electors. A “qualified elector” is defined in Chapter 190, Florida Statutes as “any person at least 18 years of age who is a citizen of the United States, a legal resident of Florida and of the district, and who registers to vote with the supervisor of elections in the county in which the district land is located.” At the initial election, two members of the Board whose terms are expiring shall be filled by qualified electors of the District and those two individuals elected shall serve four-year terms. The remaining supervisor whose term is expiring at the same time is elected through a landowner election. The Board has the right pursuant to Section 190.006(3)(a)1.c., Florida Statutes to adopt a resolution as necessary to implement the requirements for transition to extend or reduce terms in order to implement statutory requirements. Finally, subsequent to the initial election by qualified electors, the Board will continue to transition in accordance with Section 190.006, Florida Statutes.

Section 190.006, Florida Statutes further provides that elections of Board members by qualified electors pursuant to Section 190.006 shall be conducted in the manner prescribed by law for holding general elections. There were two (2) seats up for general election this year. The election in this case was intended to be administered by the Lee County Supervisor of Elections and held in connection with the general election scheduled for November 6, 2018. There was a qualifying period for interested electors to qualify, which ran from June 18, 2018 through June 22, 2018. According to information from the Lee County Supervisor of Elections, no elector qualified to run for either of the two seats in the election for the Board. As such, no general election was held for those seats.

Pursuant to Section 190.006(3)(b), Florida Statutes, if no elector qualifies for a seat to be filled in an election, a vacancy in that seat shall be declared by the Board effective on the second Tuesday following the election. Within ninety (90) days thereafter, the Board shall appoint a qualified elector to fill the vacancy. Until any such appointment is made, the incumbent Board member in the particular seat (if there is one) shall remain in office.

An initial resolution will be presented to the Board to declare the vacancies in the two seats that were scheduled for the general election. To the extent the Board is prepared to appoint qualified electors to those seats, another resolution will be presented to the Board for consideration. As noted, appointments to fill the vacancies must be made within ninety (90) days after the effective date of the vacancy (i.e. by February 18, 2019). Copies of the draft resolutions are attached to this Memorandum for information.

COLEMAN, YOVANOVICH & KOESTER, P.A.

Northern Trust Bank Building • 4001 Tamiami Trail N., Suite 300 • Naples, Florida 34103
Phone: 239-435-3535 • gurbancic@cyklawfirm.com • Facsimile: 239-435-1218

With respect to the scheduled landowner election, the landowner election will be conducted in accordance with the instructions that were distributed and discussed at the May 17, 2018 meeting. For any landowner unable to appear at the meeting, the instructions included a proxy form that could be used to authorize another person to vote in his/her absence. Proxies must be properly and fully completed in order to be counted in the election tabulation. There will also be ballots on hand at the meeting for purposes of voting by those landowners in attendance at the meeting. .

Please contact me if you have any questions with regard to this Memorandum.

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RESOLUTION 2019-__

A RESOLUTION OF THE BOARD OF SUPERVISORS OF CYPRESS SHADOWS COMMUNITY DEVELOPMENT DISTRICT DECLARING VACANCIES IN SEAT 2 AND SEAT 5 ON THE BOARD OF SUPERVISORS PURSUANT TO SECTION 190.006(3)(b), FLORIDA STATUTES; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

RECITALS

WHEREAS, Cypress Shadows Community Development District (the “District”) is a local unit of special purpose government created and existing pursuant to Chapter 190, Florida Statutes; and

WHEREAS, on November 6, 2018, two (2) members of the Board of Supervisors (the “Board”) were to be elected by the Qualified Electors of the District, as that term is defined in Section 190.003, Florida Statutes; and

WHEREAS, pursuant to Florida law, there was a qualifying period for candidates intending to run for the seats on the Board up for election; and

WHEREAS, at the close of the qualifying period no Qualified Elector qualified to run for either of the two (2) seats available for election by the Qualified Electors of the District; and

WHEREAS, pursuant to Section 190.006(3)(b), Florida Statutes, the Board shall declare such unfilled seats as vacant, effective the second Tuesday following the general election; and

WHEREAS, Qualified Electors are to be appointed to the vacant seats within ninety (90) days thereafter; and

WHEREAS, the Board finds that it is in the best interests of the District to adopt this Resolution declaring those which were available for election as vacant as of November 20, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF CYPRESS SHADOWS COMMUNITY DEVELOPMENT DISTRICT AS FOLLOWS:

SECTION 1. DECLARATION OF VACANCY. The following seats are hereby declared vacant effective as of November 20, 2018:

- Seat 2 (currently held by George Zalucki)
- Seat 5 (currently held by Madelyn L. Isaacs)

SECTION 2. APPOINTMENT/INCUMBENTS. Pursuant to Section 190.006(3)(b), Florida Statutes the Board shall appoint a Qualified Elector to fill each vacancy stated in Section

1 on or before February 20, 2017. Until such time as the Board nominates Qualified Electors to fill the vacancies declared in Section 1 above, the incumbent Board member in each respective seat shall remain in office.

SECTION 3. SEVERABILITY. If any section or part of a section of this Resolution be declared invalid or unconstitutional, the validity, force and effect of any other section or part of a section of this Resolution shall not thereby be affected or impaired unless it clearly appears that such other section or part of a section of this Resolution is wholly or necessarily dependent upon the section or part of a section so held to be invalid or unconstitutional.

SECTION 4. CONFLICTS. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, superseded and repealed.

SECTION 5. EFFECTIVE DATE. This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED this 26th day of November, 2018.

**CYPRESS SHADOWS COMMUNITY
DEVELOPMENT DISTRICT**

ATTEST:

Brian Lamb, Secretary

Louis Frattarelli, Chairman

RESOLUTION 2019-_____

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF
CYPRESS SHADOWS COMMUNITY DEVELOPMENT
DISTRICT APPOINTING QUALIFIED ELECTORS TO
FILL THE VACANCIES IN SEAT 2 AND SEAT 5 ON THE
BOARD OF SUPERVISORS PURSUANT TO SECTION
190.006(3)(b), FLORIDA STATUTES; PROVIDING FOR
SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

RECITALS

WHEREAS, Cypress Shadows Community Development District (the “District”) is a local unit of special purpose government created and existing pursuant to Chapter 190, Florida Statutes; and

WHEREAS, on November 6, 2018, two (2) members of the Board of Supervisors (the “Board”) were to be elected by the Qualified Electors of the District, as that term is defined in Section 190.003, Florida Statutes; and

WHEREAS, pursuant to Florida law, there was a qualifying period for candidates intending to run for the seats on the Board up for election; and

WHEREAS, at the close of the qualifying period no Qualified Elector qualified to run for either Seat 2 or Seat 5, which seats were available for election by the Qualified Electors of the District; and

WHEREAS, in accordance with Section 190.006(3)(b), Florida Statutes, the Board adopted Resolution 2019-_____ on _____, 201__ declaring Seat 2 and Seat 5 as vacant, effective as of November 20, 2018; and

WHEREAS, pursuant to applicable law, a Qualified Electors are to be appointed to the vacant seats within ninety (90) days thereafter; and

WHEREAS, the Board finds that it is in the best interests of the District to adopt this Resolution appointing Qualified Electors to fill the declared vacancies in Seat 2 and Seat 5.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF
CYPRESS SHADOWS COMMUNITY DEVELOPMENT DISTRICT AS FOLLOWS:**

SECTION 1. APPOINTMENT TO FILL VACANCIES. The following persons are hereby appointed to fill the following seats, with said appointments becoming effective as of _____, 201__:

Seat 2: _____

Seat 5: _____

SECTION 2. SEVERABILITY. If any section or part of a section of this Resolution be declared invalid or unconstitutional, the validity, force and effect of any other section or part of a section of this Resolution shall not thereby be affected or impaired unless it clearly appears that such other section or part of a section of this Resolution is wholly or necessarily dependent upon the section or part of a section so held to be invalid or unconstitutional.

SECTION 3. CONFLICTS. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, superseded and repealed.

SECTION 4. EFFECTIVE DATE. This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED this ____ day of _____, 201__.

**CYPRESS SHADOWS COMMUNITY
DEVELOPMENT DISTRICT**

ATTEST:

Brian Lamb, Secretary

Louis Frattarelli, Chairman