

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES JUNE 27, 2017**

**NEVADA STATE BUSINESS CENTER
3300 WEST SAHARA AVENUE
NEVADA ROOM, SUITE 400
LAS VEGAS, NV 89102**

**VIDEO CONFERENCE:
DEPARTMENT OF BUSINESS AND INDUSTRY
DIRECTOR'S OFFICE
1830 E. COLLEGE PARKWAY
SUITE 100
CARSON CITY, NV 89706**

JUNE 27, 2017

9:00 A.M.

1-A) Swearing in of new and reappointed Commissioners

Michael Burke and Charles Niggemeyer were sworn in by Acting Chair Rizzi.

1-B) Introduction of Commissioners in attendance

In Las Vegas: Michael Burke, Ken Williams, James Rizzi, Richard Layton, Doris Woods, Ryan Henderson, Charles Niggemeyer and Deputy Attorney General Asheesh Bhalla as Commission Counsel.

1-C) Introduction of Division Staff in attendance

In Las Vegas: Sharath Chandra, Administrator; Teralyn Thompson, Administration Section Manager; Charvez Foger, Ombudsman; Ingrid Trillo, Education Officer; Darik Ferguson, Chief Compliance Audit Investigator; Claudia Rosolen, Commission Coordinator; and Senior Deputy Attorney General Michelle Briggs serving as Division Counsel.

In Carson City: Sharon Jackson, Deputy Administrator and Chris Cooke, Compliance Audit Investigator.

2) Public Comment

In Las Vegas: Tim Stebbins, Henderson resident and director of the Nevada Homeowner Alliance PAC (NHA), commented. Mr. Stebbins welcomed the new Commissioners.

3-A) For possible action: Respondent's report on the order regarding settlement of disciplinary action

NRED v. Max McCombs; and English Mill Condominiums Homeowners Association, for possible action

Case No. 2014-1179

Type of Respondent: Board Officer and Director

Parties Present:

Michelle Briggs was present representing the Division.

Max McCombs was present via videoconference in Carson City.

Ms. Briggs stated that this is an update to check the status of compliance with the settlement that was entered in November 2015. Ms. Briggs stated that the respondent needed to report on the status of the reserve account funding and provide the additional records that were requested. Ms. Briggs stated last night Mr. McCombs provided additional items, showing that the reserve account funding is currently \$11,800.

Mr. McCombs stated that the amount in the reserve account is \$11,848.

Ms. Briggs asked if each unit is now paying \$54.83 per month, which is the amount that is stated in the order, and if that amount is collected monthly.

Mr. McCombs stated that homeowners are issuing one check to the association and those checks are placed into the operating account. Mr. McCombs stated that every quarter those checks are taken out of the operating account and placed into the reserve account.

Ms. Briggs stated that based on the settlement agreement, the reserve study should currently be at \$24,600 which is still deficient. Ms. Briggs stated that their reserve study shows a 2017 fully funded reserve account in the amount of \$72,000. Ms. Briggs stated that the association is not in compliance with the order, and the reserve study.

Mr. McCombs stated that the board has been collecting funds from homeowners since January of this year. Mr. McCombs stated that all homeowners are paying \$54.83 except for four. Mr. McCombs stated that 3 of those homeowners are 12 to 16 months past due, and the association is trying to collect those funds.

Acting Chair Rizzi stated that at the last meeting Mr. McCombs stated that as of December 2016, there was \$12,000 in the reserve account. Acting Chair Rizzi asked if the association had any expenditures since the amount in the reserve account went down. Acting Chair Rizzi asked where 6 months' worth of reserve account funds that should have been collected were.

Mr. McCombs stated that those funds went into the operating account because homeowners are sending one check in the amount of \$104.83 which includes the \$54.83 for the reserve fund.

Ms. Briggs stated that the math doesn't add up.

Mr. McCombs stated that the balance is a little bit skewed in the sense that homeowners don't always pay things on a monthly basis. Mr. McCombs stated that some homeowners will pay monthly, quarterly, semi-annually or annually. Mr. McCombs stated that some homeowners pay at the end of the year.

Commissioner Layton stated that according to the settlement agreement the special assessment of \$54.83 per month was to be added to the regular budget starting at the beginning of 2016.

Commissioner Layton stated that at this point the association should have collected 18 months' worth of assessments.

Mr. McCombs stated that the association started collecting the special assessment in 2017.

Commissioner Williams asked if the association has a CPA firm doing the reconciliation on the financials.

Mr. McCombs stated that the association is not using a CPA firm and asked if the Commission wants the monthly break down for the association.

Commissioner Williams stated that a CPA firm can reconcile the bank statements and break the \$54.83 out of the operating account so that funds are not being commingled.

Mr. McCombs asked if there was a statute on that.

Commissioner Williams stated that the statute states that associations cannot commingle funds and considering how often the association moves money out of the operating account this is becoming a gray area. Commissioner Williams stated that he was making a suggestion.

Commissioner Burke asked why the \$54.83 monthly assessment was not collected in 2016.

Mr. McCombs stated that he was unsure in 2016 when that was supposed to start.

Commissioner Burke stated that the order states that \$54.83 was to be added to the regular budget for 2016.

Mr. McCombs stated that there is no real start date that says 2016.

Mr. McCombs stated that the association has \$42,000 in receivables.

Commissioner Burke asked if \$42,000 in unrealized liens was the basis upon which the association did not commence collecting the \$54.83 per month until 2017.

Commissioner Layton asked for a status report at the next Commission meeting.

Ms. Briggs opposed to another status report. Ms. Briggs stated that the Commission already had four status reports and the association is not in compliance with the stipulation.

Acting Chair Rizzi suggested hiring a management company, have a plan of action, and come back one last time in Carson City. Acting Chair Rizzi stated that he doesn't want to keep taking up Commission time on this matter. Acting Chair Rizzi stated that the Commission needs to see proactive steps and progress in complying with the settlement.

Mr. McCombs asked what the penalties would be if he is not in compliance.

Acting Chair Rizzi stated that it would be up to the Attorney General and the Commission when that time comes.

Commissioner Layton moved to request that Mr. McCombs comes back and report on hiring a management company, have a clear strategy on how to bring the delinquent homeowners current, and produce a monthly financial reporting that goes from the management company to the Real Estate Division. Commissioner Layton requested that Mr. McCombs provide a monthly statement as of the end of May, a monthly statement at the end of June, and a monthly statement at the end of July. Commissioner Williams seconded.

Motion carried unanimously.

**4-A) NRED v. Pecos Creek Homeowners Association, James Gilmore, Rodolfo Rocha, Omar Guerra, Ofelia Santos, and Patricia Yuen, for possible action
Case No. 2016-1949**

Type of Respondent: Executive Board

Parties Present:

Michelle Briggs was present representing the Division.

Jonathan Kelly from First Columbia Community Management Inc. (FCCMi) was present.

Preliminary Matters:

Ms. Briggs summarized the matter for the Commission. Ms. Briggs stated that factual allegations and alleged violations were accepted as true. Ms. Briggs stated that since the last status update the board had an election, hired a new management company, and is still trying to obtain records.

Mr. Kelly stated that he represents the new management company that was hired. Mr. Kelly stated that they are having problems auditing the financials because of the lack of documentation from the previous management company. Mr. Kelly stated that the association held an election, ratified the budget, reviewed all the delinquent accounts that needed to be sent to collections, and is currently working on issues regarding decisions that were made by the prior management company in regards to the insurance that has cost the association thousands of dollars. Mr. Kelly stated that the association continues to make the agreed payments to the City of North Las Vegas' utilities for the settlement agreement. Mr. Kelly stated that the water bill is up-to-date and the pool is now up and running. Mr. Kelly stated that they had a reserve study done and will submit it for board approval.

Acting Chair Rizzi asked when FCCMi started managing the association.

Ms. Briggs stated that they were hired in March after the last Commission meeting. Ms. Briggs asked who is on the board.

Mr. Kelly stated that Sherryl Baca is the President; Lucy Pinon is the Treasurer, Lacramoira Stoian is the Secretary, and that they currently have two open positions.

Ms. Briggs asked about the audits and the reserve study.

Christopher Riestra-Schneider, employee at FCCMi, stated that they contacted three CPA firms. Mr. Riestra-Schneider stated that one of the firms turned them down immediately and the other two are hesitant to accept the job due to lack of documents.

Acting Chair Rizzi asked what the recommendations from the reserve study specialist are.

Mr. Riestra-Schneider stated that the fully funded balance for this year should be \$500,000 and the association's current balance is \$2,000.

Acting Chair Rizzi asked which firm did the reserve study.

Mr. Riestra-Schneider stated that McCaffrey did the study.

Commissioner Woods recused herself from this matter because FCCMi is the management company for her association and she is on the board.

Acting Chair Rizzi move to continue this matter to the August hearing in Carson City for a status check. Commissioner Burke seconded.

Motion carried with Commissioner Woods abstained.

4-C) NRED v. Palmilla Homeowners Association, Vijay Shetty, Tracy Dalton, William Simpson, James Lee, Renee Snodgrass, Shauna Carson, and Karen Henderson, for possible action

Case No. 2016-3042

Type of Respondent: Executive Board

Parties Present:

Michelle Briggs was present representing the Division.

Julie Funai was present representing Palmilla Homeowners Association.

Karen Henderson was present.

Christopher Lund was present representing William Simpson.

Preliminary Matters:

Ms. Briggs stated that this is a status check because the association is deficient in their audits, reserve study, and funding of the reserve account.

Ms. Funai stated that the association has been trying to get audits and financial records from PW James. Ms. Funai stated that on March 6, 2017 the association had a board meeting where they terminated PW James and hired First Service Residential. Ms. Funai stated that the board hired Kaden Company to conduct the auditing services, completed all the registration information, and conducted a reserve study. Ms. Funai stated that the board wasn't happy with the reserve study

results and requested additional bids, which have already gone out. Ms. Funai stated that the board has terminated their general contractor and general counsel and at the next meeting, on July 13th, the board will hire a new general counsel and put plans in place for going forward with the audit. Ms. Funai stated that the association is unable to find the documents concerning the construction defect moneys, which were approximate \$900,000. Ms. Funai stated that the association is tracking down the attorneys that handled the files to retrieve the paperwork.

Acting Chair Rizzi move to continue this matter to the November meeting. Commissioner Williams seconded.

Motion carried.

Mr. Lund asked permission to excuse William Simpson from any more status reports.

Ms. Briggs did not oppose.

Acting Chair Rizzi accepted Mr. Lund's request to excuse William Simpson from any more status reports.

4-B) Disciplinary action: Hearing and possible action by the Commission
NRED v. Vistana Condominium Owners Association, Larry Fitch, Anthony Knelp,
Lynn Williams, Ardyce Nelson, for possible action
Case No. 2015-3373

Type of Respondent: Executive Board

Parties Present:

Michelle Briggs was present representing the Division.

Richard Haskin was present representing Vistana Condominium Owners Association and the board members.

Preliminary Matters:

Ms. Briggs stated that this matter received a continuance in November 2016 and March 2017.

Ms. Briggs stated that Mr. Haskin is here to ask for another continuance.

Mr. Haskin stated that the association was involved in a long trial with respect to the Leon Benzer/Nancy Quon matter. Mr. Haskin stated that the matter just resolved with its final lawsuit against the law firm of Kaempfer. Mr. Haskin stated that a judgment, with an award of money damages in favor of Vistana, was rendered last week in District Court. Mr. Haskin stated that the prior continuances were to ensure that the board stayed in place as most of the board members had to testify in that trial. Mr. Haskin stated that the appeal deadlines, attorney fee deadlines, and cost motion deadlines are not up yet. Mr. Haskin stated that while the decision was in Vistana's favor, there was an offset provided by the Court that may be subject to appeal and the association would like for the board to be undisturbed during this decision-making process. Mr. Haskin stated that the association is also requesting another continuance to the November meeting because the prior manager for Vistana lost her license as a result of this matter at the last Commission hearing in March. Mr. Haskin stated that he had been dealing with the prior

manager in order to obtain documents and getting nowhere. Mr. Haskin stated that since then, the association went through a series of temporary on-site managers and two months ago, they got a permanent on-site manager. Mr. Haskin stated that he has been working with the new manager in regards to those documents or the lack of.

Ms. Briggs was opposed to Mr. Haskin's request for a continuance. Ms. Briggs stated that Ms. Rosario's license was not revoked by the Commission, Ms. Rosario testified that the board made decisions for the towing program, and that Ms. Rosario didn't advise them otherwise. Ms. Briggs stated that the board members were asked to provide an affidavit as to what happened, how the decision was made, who made it and they still haven't done it. Ms. Briggs stated that there are only few factual allegations that are in dispute, the biggest part of that is that the board didn't respond to the Division.

Mr. Haskin made a rebuttal to Ms. Briggs opposition to the continuance request.

Commissioner Burke asked what effect the judgment has on the ability of the board to be present at this Commission meeting and answer for itself.

Mr. Haskin stated that if there is an adverse determination against the board and the board is asked to step down, the replacing board members will have no knowledge of the litigation.

Commissioner Burke asked if the notice of entry of judgment was entered.

Mr. Haskin stated that findings of fact and conclusions of law were entered and the proposed judgment was submitted last week but the judge has not signed the judgment.

Commissioner Burke asked if the board members would have to appear, testify or give affidavits in the appeal.

Mr. Haskin stated that the board hasn't decided if they want to proceed with an appeal or not. Mr. Haskin stated that there are four other attorneys involved in the matter and he is not a majority to make a recommendation to the board.

Commissioner Williams asked why the board didn't address the towing procedure with Mr. Haskin since he stated that he had daily conversations with at least one of the board members.

Commissioner Layton asked if Ms. Briggs would still like for the board to respond to the Division's request for information.

Ms. Briggs stated that since the complaint was filed, she asked Mr. Haskin to provide affidavits from the board as to what happened, how the decision was made and who made it. Ms. Briggs stated that this is the first time she has heard that the decision for the towing program was made during a meeting and not just a decision made by a couple of the board members in a discussion with the manager.

Mr. Haskin stated that he can provide those affidavits within 21 days. Mr. Haskin stated that

Lynn Williams responded to the Division by way of letter rather than a sworn affidavit.

Ms. Briggs stated that Lynn Williams' response was on behalf of Ms. Orozco concerning Ms. Orozco's case and he did not respond to the investigation against him personally.

Mr. Haskin asked a continuance until August.

Acting Chair Rizzi asked if the board intends to be present in Carson City at the August meeting.

Mr. Haskin stated that is his intent.

Commissioner Williams moved to continue the case to the August meeting, for the respondents to appear in person in Carson City, and have no ability to request another continuance. Commissioner Layton seconded.

Motion passed 4 to 3 with Commissioners Henderson, Burke and Woods opposed.

5-A) For possible action: Discussion and decision to approve minutes of January 18, 2017 Commission meeting

Commissioner Layton moved to approve the minutes of January 18, 2017. Commissioner Williams seconded.

Motion carried with Commissioner Burke and Niggemeyer abstained.

5-B) For possible action: Discussion and decision to approve minutes of March 7-9, 2017 Commission meeting

Commissioner Williams stated that on page 19, under Commission Comments it should read "I hope that there will be a proposal" instead of "there will be a proposal". Commissioner Williams stated that when it comes to legislation there are no guarantees.

Commissioner Williams move to approve the amended minutes of March 7-9, 2017. Commissioner Woods seconded.

Motion carried with Commissioners Burke and Niggemeyer abstained.

5-C) Discussion regarding Commissioners' speaking engagement requests.

Commissioner Williams stated that he was asked to speak at an event on July 13, 2017.

4-G) Disciplinary action: Hearing and possible action by the Commission

NRED v. Leslie White, for possible action

Case Nos. 2016-3229; 2016-3078; 2016-3079; 2016-2920; 2016-3363

Type of Respondent: Community Manager

License#: CAM.0000070-SUPR (VOLUNTARY SURRENDER)

Parties Present:

Michelle Briggs was present representing the Division.

Leslie White was not present.

Preliminary Matters:

Ms. Briggs gave the Commission a brief summary of this matter. Ms. Briggs stated that Ms. White didn't respond to the complaint and a default was submitted to her. Ms. Briggs asked to present a witness and some documents to the Commission before requesting a default judgment against the respondent.

Commissioner Williams asked who decides whether a case is criminal or needs to come in front of the Commission.

Ms. Briggs stated that the Division, if deemed appropriate, will refer a case to any law enforcement agency it can and it is up to that law enforcement agency to pursue. Ms. Briggs stated that she would hope that associations that were involved would file police reports.

Commissioner Burke asked if the respondent had filed bankruptcy for the corporation or personal and if a finding of fraud against the respondent, personally, will allow it to be non-dischargeable in bankruptcy.

Commissioner Henderson asked if the Commission has jurisdiction to fine the respondent personally.

Ms. Briggs stated that the complaint is against the person. Ms. Briggs stated that the Commission doesn't have jurisdiction over the entity because the entity doesn't have a certificate and the respondent filed bankruptcy in the name of the company. Ms. Briggs stated that respondent used the same company with a different "Doing Business As" (DBA).

State's Witness:

Christina Pitch testified.

Ms. Briggs submitted State's Exhibit 1.

State's Exhibit 1 was accepted into evidence.

Commissioner Woods questioned Ms. Pitch.

Commissioner Williams questioned Ms. Pitch.

Commissioner Layton questioned Ms. Pitch.

The witness was dismissed.

State's Witness:

Commission Coordinator Claudia Rosolen testified regarding proof of service.

Ms. Briggs asked the Commission to enter a default judgment against Ms. White and that the factual allegations and violations of law contained in the complaint are to be accepted as true.

Commissioner Layton move to accept the allegations and violations of law as listed in the complaint. Commissioner Burke seconded.

Motion carried unanimously.

Commissioner Layton asked if the Commission can impose a fine in the amount that is listed on page 84 of the complaint since respondent was operating without a license.

Ms. Briggs stated that the complaint covers two different time periods, part of which respondent was licensed and part when she was not licensed, so there are violations of law in addition to the unlicensed activity.

Commissioner Williams asked how to fine the respondent so she won't be protected under the bankruptcy.

Ms. Briggs stated that for the violation of law #27 and #28, the Commission could make a finding of "fraudulent" as opposed to "deceitful" or "dishonest".

Commissioner Layton moved to order the following discipline:

- For Violation of Law #24, Ms. White shall pay an administrative fine to the Division in the amount of \$1,014,101.57.
- Ms. White shall pay the attorney's fees and costs of the Division in the amount of \$15,793.42.
- For Violations of Law #25-39, Ms. White shall pay an administrative fine to the Division in the amount of \$75,000.
- Ms. White procured the funds via fraud against homeowners associations.

Ms. Briggs asked for a clarification on the restitution to the associations.

Acting Chair Rizzi restated Commissioner Layton's motion to order the following discipline:

- For Violation of Law #24, Ms. White shall pay an administrative fine to the Division in the amount of \$1,014,101.57.
- Ms. White shall pay the attorney's fees and costs of the Division in the amount of \$15,793.42.
- For Violations of Law #25-39, Ms. White shall pay an administrative fine to the Division in the amount of \$75,000.
- Ms. White shall pay restitution totaling \$1,642,451.25 to the affected associations produced under fraud.
- The total administrative fines and restitution detailed above shall be due no later than 60 days from the date of the Order.

Commissioner Williams seconded.

Motion carried unanimously.

4-F) Disciplinary action: Hearing and possible action by the Commission

NRED v. Yvonne Marie Jones, for possible action

Case Nos. 2016-4196; 2015-3804; 2015-3806; 2015-3807; 2015-3809; 2015-3811; 2015-3813

Type of Respondent: Community Manager

License#: CAM.0001220-SUPR (ACTIVE)

Parties Present:

Michelle Briggs was present representing the Division.

Yvonne Marie Jones was not present.

Preliminary Matters:

Ms. Briggs stated that Ms. Jones contacted Ms. Rosolen, Commission Coordinator, stating that she no longer lives in Nevada. Ms. Briggs stated that Ms. Jones has not notified the Division with regards to her current address. Ms. Briggs stated that Ms. Jones was one of the managers that Ms. White hired and she worked for Ms. White until May 2016.

State's Witness:

Claudia Rosolen testified regarding proof of service and the two attempts that were made over the phone.

Ms. Briggs asked the Commission to enter a default judgment against Ms. Jones and that the factual allegations and violations of law contained in the complaint to be accepted as true.

Commissioner Layton asked how long Ms. Jones was a manager.

Commissioner Williams stated that she is not a new manager because she has a supervising community manager certificate.

Commissioner Layton asked when the Division notified the respondent that Ms. White had been sanctioned by the Commission.

Ms. Briggs stated that she was notified in October 2015 and that she responded to the Division stating that Ms. White controlled all the finances for the associations.

Commissioner Williams moved to find Ms. Jones in default. Commissioner Burke seconded.

Motion carried unanimously.

Commissioner Williams move to accept the allegations and violations of law as listed in the complaint. Commissioner Layton seconded.

Motion carried unanimously.

Division's Recommendation for Discipline:

Ms. Briggs gave the Division's recommendation for discipline:

- Revocation of certificate for no less than 10 years;
- Administrative fine of \$5,000.00 for each violation; and
- Cost in the amount of \$ 5,235.28.

Commissioner Layton moved to order the following discipline:

- Revocation of certificate for no less than 10 years and the requirement that she will have to come in front of the Commission for reinstatement.
- Administrative fine of \$5,000.00 for each of the 8 violations; and
- Cost in the amount of \$ 5,235.28.

Commissioner Williams seconded.

Motion carried unanimously.

Acting Chair Rizzi stated that during the lunch break, the Commission was presented with an email that was sent after hours to the State, requesting a continuance, from Yvonne Jones. Acting Chair Rizzi stated that Ms. Jones has the right to appeal the Commission's decision.

Mr. Bhalla stated that the Commission found Ms. Jones in default, but given the e-mail where she stated that she was not able to change her address because she couldn't find the form, she will be allowed to petition for a rehearing, if she requests it.

4-I) Disciplinary action: Hearing and possible action by the Commission

NRED v. Pecos Estates Homeowners Association, Barbara Stark, Melani Laver, and Ninette Macedo, for possible action

Case No. 2016-3278

Type of Respondent: Board Officer and Director

Parties Present:

Michelle Briggs was present representing the Division.

Michael Van Luven was present representing Pecos Estates Homeowners Association.

Guy Kistler and Jim Sisler, current board members, were present.

Preliminary Matters:

Ms. Briggs asked if Kristen Gillis is the current manager for the association.

Mr. Sisler stated that Ms. Gillis of Harmony Management is the current manager.

Ms. Briggs asked why PWJames' name is on the association's management agreement but the current manager is Kristen Gillis. Ms. Briggs stated that the association has not approved a plan to fund the reserve account, as stated at the Commission meeting in March.

Mr. Van Luven stated that there was a patchwork management agreement laid over the top once PWJames was revoked and that last night the board approved a new contract. Mr. Van Luven stated that they have a draft reserve report and funding plans ready for the board to review at

their next board meeting.

Mr. Kistler stated that he has been on the board for a year and a half and didn't know that there was a funding problem. Mr. Kistler stated that he never seen the reserve study from five years ago. Mr. Kistler stated that when he purchased his house four years ago, he was not informed of the funding problem that started 30 years ago.

Mr. Sisler stated that a lot of the homeowners are already delinquent and won't be able to pay a special assessment. Mr. Sisler stated that a five or ten years plan should be the best way to make the plan affordable to the homeowners.

Acting Chair Rizzi asked if they have a draft reserve study.

Mr. Kistler stated that the reserve specialist did a walk around the property yesterday morning.

Acting Chair Rizzi asked what is going to be the turnaround time to complete that reserve study.

Kristen Gillis stated that the management company came up with several plans based on the reserve study that is currently in place. Ms. Gillis stated that the reserve that is currently in place shows that that the association is \$290,000 in deficit. Ms. Gillis give the Commission a brief estimate of the special assessment with s 25 year, 1 year, 2 year, 3 year, and 5 year plan. Ms. Gillis stated that the current assessment that homeowners are paying is \$155 per month and that will need to go up as well.

Acting Chair Rizzi asked if an analysis was done to determine how much the regular assessment will need to increase.

Ms. Gillis stated that the management company got the contract last night.

Ms. Briggs argued that PWJames works for Harmony Management.

Ms. Gillis stated that PWJames does not work for them.

Ms. Briggs stated that Penny Frederick answers the phone.

Ms. Gillis stated that she has not seen the Fredericks in the office in weeks and that they were coming into the office to help with the transition. Ms. Gillis stated that without her knowledge they put a Harmony Management cover letter on top of their contract. Ms. Gillis stated that Harmony Management took over the association last night.

Commissioner Burke asked what upkeep and maintenance work had been done.

Mr. Kistler stated that two-thirds of the buildings have been redone; the pool was re-plastered and tiled, pool fencing and cover has been repaired, pool house, and all the cinderblock walls have been repaired.

Ms. Briggs stated that at the last Commission meeting the board assured the Commission that they would adopt a funding plan.

Mr. Kistler stated that three board members and PWJames have gone back a long way and obtaining the financials was just like pulling teeth.

Acting Chair Rizzi asked when the request for proposal (RFP) for the reserve study went out and when was an award made on the reserve study.

Mr. Van Luven stated that he doesn't have that information and that the board had problems reaching a quorum. Mr. Van Luven stated that last night the board had an emergency meeting.

Acting Chair Rizzi stated that he would like to know what steps the board has taken in the last three months.

Mr. Van Luven stated that when PWJames approached the current management company stating that they would like to move their accounts over to Harmony Management, PWJames did it as window dressing. Mr. Van Luven stated that PWJames held all the documents and kept trying to work those accounts on the side. Mr. Van Luven stated that once that came to light; a new contract for Harmony Management/Kristen Gillis only was submitted, approved, and signed by the board.

Commissioner Williams asked if in March PWJames was still operating as the management company.

Mr. Kistler stated that PWJames was still operating as the management company.

Commissioner Burke asked who employed the person to do the reserve study.

Mr. Kistler stated that Brian McCaffery walked around the property for the reserve study, but doesn't know who employed him. Mr. Kistler stated that at the last board meeting PWJames stated that they were probably going to hire the same company that did it last time.

Commissioner Layton stated that he would suggested special monthly board meetings until the issues that are pending like the special assessment, reserve study and the proper notice to homeowners about imminent increase in monthly and special assessment are dealt with.

Commissioner Williams moved to find as accurate factual allegations 3 through 11 and that violations of law 12 through 14 to be found valid. Commissioner Layton seconded.

Motion carried.

Ms. Briggs requested that the Commission find that violations were knowing and willful, remove the board members, and prohibit them from running for the board for no less than 10 years.

Commissioner Niggemeyer stated that he is concern about the quorum because governing

documents may say something about quorum requirements for board meetings.

Mr. Kistler stated that one board member has already been replaced.

Mr. Sisler stated that the other board member that is not listed is Giovanni Sosa.

Commissioner Williams moved to remove respondents Stark, Laver, and Macedo from the board; prohibit them from serving on any board for 10 years; that they split the total costs of \$2,704.11 to be paid within 60 days from the date of the order; and that a follow-up with the association be conducted to include a funding plan and compliance with all the records that the State requires at the Commission meeting in August. Commissioner Burke seconded.

Motion carried unanimously.

Commissioner Layton suggested getting the reserve specialist's contract, reviewing it, and having it formally approved at the board meeting.

Commissioner Niggemeyer stated that he would like for the board to attend some education classes in order to preclude some of these things from happening in the future.

4-E) Disciplinary action: Hearing and possible action by the Commission

NRED v. Hidden Crest IV Homeowners Association and Anthony Gelsone, for possible action

Case No. 2016-3329

Type of Respondent: Board Officer and Director

Parties Present:

Michelle Briggs was present representing the Division.

Michael Van Luven was present representing Hidden Crest IV Homeowners Association and Anthony Gelsone.

Anthony Gelsone was present.

Preliminary Matters:

Ms. Briggs gave the Commission a brief summary of this matter. Ms. Briggs stated that this is another case where Harmony Management was assigned the contract from PWJames, and were representing themselves as Harmony PWJames. Ms. Briggs stated that the outstanding issue is in regards to filings with the Division.

Mr. Van Luven stated that this was an association that was managed by PWJames, the named board member was out for several months with a severe back injury, and in the meantime the other two board members quit. Mr. Van Luven stated that he was hired when the association received the complaint filed by the Division. Mr. Van Luven stated that at the last board meeting some board members were elected, signed a provisional contract with Harmony Management and started to get things in order. Mr. Van Luven stated that at the next board meeting they will hire a management company, address the reserve study issue and put it in place.

Ms. Briggs stated that one of the issues with the association was that all the accounts were under PWJames and Mr. Gelsone was not on the bank account. Ms. Briggs stated that the association is moving in the right direction and would like to request a follow-up for August.

Mr. Van Luven stated that the bank is requiring a subpoena before providing records.

Commissioner Williams asked which bank was it.

Mr. Van Luven stated that the bank is Mutual of Omaha.

Ms. Briggs asked who is collecting assessments and deposits.

Ms. Gillis stated that assessments are turned over to Harmony Management.

Ms. Briggs asked if those assessments are going into a new bank.

Ms. Gillis stated that Alliance Bank was willing to reopen the account under Harmony Management and that as soon as they are able to close the account at Mutual of Omaha, funds will be transferred over.

Commissioner Williams asked how the association is paying bills.

Ms. Gillis stated that bills are not being paid.

Commissioner Burke asked how much money is in the Mutual of Omaha account.

Mr. Van Luven stated that they have \$14,000 in the operating accounts and \$17,000 in reserves.

Commissioner Williams moved to continue this matter to August, requested to have proof that the State filings are current, the funding plan is in place, and a reconciliation of all of the vendors who have or have not been paid. Commissioner Layton seconded.

Motion carried unanimously.

6-A-2) Administrator's Report: 2017 legislative updates that impact the Commission, Ombudsman's Office and/or the Division

Sharath Chandra presented this report. Mr. Chandra stated that the volume of bills that came up during this legislative session for the common-interest communities was lower than usual. Mr. Chandra stated that most of the changes are affecting the regulatory prospective like the one that would change the make-up of the board. Mr. Chandra stated that the Division is operating on a flat budget that has been approved.

6-A-1) Administrator's Report: Personnel

Sharath Chandra presented this report. Mr. Chandra stated that Sharon Jackson is the new Deputy Administrator and she moved into the northern office. Mr. Chandra stated that Charvez Foger is the new Ombudsman. Mr. Chandra stated that the way the Division is structured now

allows for members of the public to have someone that will greet them at the front counter and track the type of services they are coming in for. Mr. Chandra stated that the Ombudsman's office has increased its outreach efforts.

Commissioner Williams asked about SB 476.

Mr. Chandra stated that it came out from the Sunset Sub-committee as a regular scheduled item.

6-B-1) Ombudsman's Report on intervention

Charvez Foger presented this report. Mr. Foger stated that he has an open door policy for constituents and two day turnaround on inquiries. Mr. Foger stated that they are currently working on filing alternative dispute resolution cases and creating digital files to reduce space and paper load. Mr. Foger stated that he included a new report that tracks topics or issues addressed during his meetings with constituents. Mr. Foger stated that year to date the number of interventions received is 139.

6-B-2) Ombudsman's Report on informal conferences

Charvez Foger presented this report. Mr. Foger stated that there was a 79% resolution rate for 2016 and currently the informal conference resolution rate for 2017 is 77%.

6-B-3) Ombudsman's Report on alternative dispute resolution filings and subsidy claims

Charvez Foger presented this report. Mr. Foger stated that there are 28 new filings for May, 41 claims were assigned, and 66 closed.

6-B-4) Ombudsman's Report on homeowner association and compliance audits

Charvez Foger presented this report. Mr. Foger stated that in May they reviewed 11 associations for possible audits. Mr. Foger stated that 7 audits were initiated, 4 completed and resolved and 2 referred to the Compliance section. Mr. Foger stated that the total for delinquent fees collected in May is \$426.

6-B-5) Ombudsman's Report on Program Training Officer's Report

Charvez Foger presented this report. Mr. Foger introduced the training officer Monique Williamson. Mr. Foger stated that training classes have been revamped and are becoming so popular that they have standing-room only. Mr. Foger stated that the total classes presented year to date is 96.

6-B-6) Ombudsman's Report on number and types of associations registered with the State

Charve Foger presented this report. Mr. Foger stated that the current number of registered associations is 3,181 with 531,757 units. Mr. Foger stated that the total of new units registered is 1,843.

6-B-7) Compliance Section's report

Charvez Foger presented this report. Mr. Foger stated that in May the total number of cases concerning community managers was 7 and 31 were closed. Mr. Foger stated that the number of cases opened against boards was 7 and 51 were closed.

6-C) Licensee and board member discipline report

Teralyn Thompson presented this report. Ms. Thompson updated the Commission on changes to the disciplinary report since the last Commission meeting.

Commissioner Williams asked how long a case stays on the books after becoming delinquent.

Ms. Thompson stated that past due cases are turn over the Controller's office. Ms. Thompson stated that there isn't a set amount of time, usually after 3 fiscal years the State Controller's office will reach out to the Division and start talking about writing off bad debt.

Commissioner Williams stated that he has a problem with this process. Commissioner Williams stated that he feels that it's a waste of the Commission's time.

Mr. Bhalla stated that this is a problem across boards and commissions because people get fines and stop paying them. Commissioner Williams asked if this is something that will need to be dealt with at legislation level in order to get something done.

7) For possible action: Discussion and decision on date, time, place, and agenda items for upcoming meeting(s)

Acting Chair Rizzi stated that the Commission is scheduled for August 29-31, 2017 in the north.

8) Public Comment

None.

9) Commissioner Comments

None.

10) For possible action: Adjournment

The meeting adjourned at 2:54 p.m. on June 27, 2017.

Respectfully Yours,

Claudia Rosolen
Commission Coordinator