

**Town of Pomona Park – Special Town Council Meeting Minutes**

**Thursday, June 18, 2020 (5:30pm)**

**VIA TELECONFERENCE. Call 1-888-204-5987 Access Code is 3674654#**

Present: Mayor Joseph Svingala, Councilman Dr. Robert Warren, Councilwoman CarrieAnn Evans, Councilwoman Lynda Linkswiler, Councilman Victor Szatkowski, Councilman Jim Griffin, Councilwoman Pat Mead, Attorney Craig Sherar, Town Clerk Donna Fontana.

Absent: none

Meeting came to order at 5:30 p.m.

Purpose of this meeting: First reading of Ordinance 2020-5, An Ordinance of the Town of Pomona Park Florida authorizing the Mayor to sign a deed and any other documents necessary transferring ownership of town owned property.

Councilwoman Evans made a Motion to adopt Ordinance 2020-5 and it was 2<sup>nd</sup> by Councilman Griffin. Attorney Sherar explained that we are here today to see if the Town wants to deed away and swap out the properties on Perry Street which we've been talking about now for a couple of years. At the last meeting we had a proposed contract, we made 4 proposed suggestions for changes. I got a hold of Mr. Isaac, who is Cathy's attorney on this matter. He made the changes, so basically the liability of the town is \$175 contribution toward the surveyor. We will help with the curing of any title defects, but we do not have an obligation to expend any money or do anything affirmative. There are of course going to be title defects because the road is not where the right of way was deeded, but the exchanging of the 2 properties with the 2 Krupski's, the Town and Hardware and Business should take care of all of those defects. The legal descriptions for the swaps were prepared by Mr. Morris who was our surveyor back when we originally did this, I think in 17. The contract is contingent that all parties must agree to this which is the four of us. Otherwise, it will not go through and we are only doing this on a Quit Claim Deed, we are not making any warranties or representations concerning the quality or the marketability of the title. It is my understanding that Cathy will go to the title company, Warren Wilhite. He is good at dealing with these problem areas, based upon what we are doing in the surveys, I don't see any reason why there's going to be any impediment to this going through. Except for the one I just thought of, as I uttered those words. Which is hopefully nobody has a mortgage on their property. We don't but if any of those swap properties are included in a mortgage, there's going to be an issue. Nobody has brought that up so hopefully there aren't any. Other than that, that's pretty much it, we've got a site plan that Cathy has proposed. Have they made a formal application for a building permit. Clerk said, no, not yet. Cathy said she will have it for me tomorrow. Attorney said, the only thing I can say on this is the caveat, if we agree to do this. The reason ostensibly we are doing this is because they want to put in a building and there will be a setback problem on Perry Street without doing this and there should be in your packet their proposed site plan. Without making big changes, they could change the location of the building. They could make application for a variance. I would note that since they have not made application formally for a building permit, and up until the time that the building is actually started with construction, just because they make application for a building permit doesn't mean that they have to sit there and go through with it. I mention that because if anybody is inclined

that the only reason we are doing this is to accommodate the construction of the building, you may want to put a condition in there that the deeds not be signed until such time as they actually commence construction. Although, we've been talking about this back even before there was a plan to build a building, because we were trying to get Perry St. straightened out. We have 2 problems with Perry St. One is that where it attaches to HWY 17 is out of the right of way and when you go to where Perry St. makes the bend, the right of way was a 90° bend and the road that got constructed has a curve in it which is on Hardware & Business's property. You've all got a copy of the map with the swaps and you can see where those are. That's basically it. Councilwoman Evans asked, because I'm employed by Rebecca and Bryan Krupski, am I allowed to vote on any of this stuff? Attorney said, in an abundance of caution, under different circumstances I would say absolutely that would be a conflict. Because this is such a mess up and there is an exchange of property that effects a bunch of issues between everybody, if you feel uncomfortable with voting on it, then it's certainly within your discretion and nobody could fault you because it is a possibility of a conflict of interest. The safe thing to do would be to remove yourself because of the conflict of interest. That means that you also have to remove yourself from the discussion. You can stay at the meeting but you couldn't argue one way or the other because if you have a conflict, it's a conflict also as to trying to persuade anybody one way or the other. Councilwoman Evans said, Ok, I feel that I better not do anything. I will fill out the form. I just don't want it to ever come back. Attorney said, I commend you for bringing that to our attention. Councilman Griffin asked, Craig what would them owing a mortgage have to do with any action that we could take against them in the future, if we had to? Attorney said, it wouldn't have anything to do in the future. The problem it would have is this, if there was a mortgage, we would first have to look and see... and Isaac and I, that's Cathy's attorney, he and I have had extensive discussions. Is Cathy on the phone? Yes. Cathy, do you guys have a mortgage on the property. Cathy said, I do, we have a small mortgage on the property. Craig, I don't want to see that impending any of this because of where this 40' location is and the mortgage is very minimal. Clerk asked, so does she have to go back to the institution that she got the mortgage through and let them know that this is changing? Attorney said, the first thing that we have to do is figure out the property that she is dealing with is even encumbered by the mortgage. It may not be encumbered by the mortgage. One of the problems we've had in this whole process is I have not run out the legal description of the property, and there's some issues about whether or not the legal description does or doesn't cover some of our property. There was a question as to whether or not there was an overlap. Do you know what I'm saying? Clerk said, no. Attorney said, the legal description was not supposed to include the property that was deeded to the Town as Perry St. Rodney had a survey that showed that the property that was deeded to Perry St. was. We never did reach the issue as to whether or not it was included. I think the best thing to do is, let's wait and see because Warren, when he does the title work will determine... Well, that's also going to be a problem with the... hang on a second. Councilwoman Linkswiler said, while you are taking your second I just have to say, I can't believe that we were going to take property and swap that we haven't done title search on and didn't know if there were liens against it. Attorney said, well that would have been up to y'all to go through that. Mayor said, Craig we would only do that with your suggestion. We wouldn't come up with that. Councilwoman Linkswiler said, I agree. I would think it would be recommended by the attorney. Attorney said, well that could either be me or Mr. Isaac. Councilwoman Linkswiler said, Mr. Isaac is not advising the Town. Attorney said, under the circumstances that was probably something that all of us should have thought of. Clerk said, it wasn't done when you guys agreed to this in 2017 and so that's

probably why it slipped through this time as well. It's a good point that you brought it up and now the Council has to decide what they want to do about it. Clerk asked, do you have the title searches scheduled yet Cathy? Cathy said, no, not until this ordinance is approved. I think its minimal. I'll call Mr. Isaac and talk to him about it tomorrow. I don't think that's an issue. With what I'm giving and y'all are taking, I don't think that's an issue. Mayor said, here's my suggestion Craig, tell me where I'm wrong. Let us have our vote tonight, we've been waiting 3 years for this. It doesn't mean anything until we vote again in 10 days and between now and the 10 days, Cathy can supply whatever is needed to satisfy your questions and then we have the second vote. Attorney said, that is correct and we can go ahead and go forward and wait to see this on the second. Let's assume that there's a mortgage on there, what we don't know, because of the way the title is done, the deeds were done in the past and not having done a title search, your deed should not have included the deeded Perry St. There's always been an issue about that but it has never been addressed because nobody ever wanted to get that far into it. We never got that far but Becky...Kelly are you on the phone? I'll tell you what, first of all, I would not recommend the Town to take property if its got a mortgage on it. Your mortgage company may release it. Who do you have your mortgage with? CenterState. It may not be encumbered, it may not be in the legal description. If it is a small amount they may release it since its going to clear up and you're getting additional property. I suggest, if you are going to use Warren to do this title work, get him to jump on doing it and have him find out whether or not we even have a problem. If we don't have a problem, the first thing to do is go to CenterState and see if they'll release it. If they do then we don't have a problem but based upon the way Becky Krupski had done this thing, if she finds out there's a mortgage on that property, its likely to be a problem. It's a good thing I said it, we need to get ahead of it. I would suggest Cathy that a. you go ahead and get Warren to start looking at that, b. we go ahead and adopt this on the first reading. I will tell you this, if it turns out that there's going to be a mortgage on the property and we can't take care of it, my advice is going to be not to go through with it. Now that we all know what it is and we're a week ahead of it, let's see where we are a week from now. Mayor said, well Craig, I certainly wish this would have come up 3 years ago. We're down now at the bottom line and all of a sudden we've got these legal issues coming up and there's been 3 years for them to come up. Councilwoman Linkswiler asked have the Krupski's given any information as to whether or not they have a mortgage on their property? Attorney said, that's a very valid question. Clerk said, none of us have asked however I believe that I was told that they do not. Councilwoman Linkswiler said, that will certainly have to be cleared before we can take it on. Councilman Warren asked, what personal liability is there in our signing this over if it is true that some of this property ends up being valuable and much more valuable than what we're dealing with now. Essentially the Town feels that we acted in poor faith when we went through this contract? Attorney said, I've been opposed to thing from the very beginning and maybe that kind of twisted me off a little bit. 2. Its just such a weird thing that when you're in the middle of doing a weird thing you don't think of the conventional things which is, is there a mortgage. Is that my fault, is that somebody else's fault, I don't know, I can't think of everything. I do the best I can do. As far as Dr. Warren goes, what we are making a decision now based upon the facts of the circumstances as we know them now. If 20 years from now they decide to widen it and as a result of us doing that, the Town gave up \$50,60,70, 100, 200,000 dollars worth of property. Based upon the situation now which is according to DOT this is not in their 10 year plan. We can't worry about what's going to happen more than 10 years from now. Because a. they may never widen the road, b. they may widen the road but not take anything from there, c. who knows



what property is going to be worth 20 years from now. Councilwoman Linkswiler said, its not been worth a high dollar at this time, so we have to act on what the value is today. Clerk said, it is your duty as a Council member to think out 10, 20, 30 years, not just today. Attorney said, she's right about that, but I will also say it is a mess. Remember, I am against the swap but that's a policy decision. It should be fixed. My recommendation would be to keep everything that you've got and file law suits, but the commission may decide that the best way to fix the mess is to make the swaps. As far as the swaps, for or against, from a policy basis, I could make the decision either way. I do not think that you all have liability based upon the circumstances of voting for it. I do not think that you all liability based upon the circumstances voting against it. It's like Donna says, Donna's against it, as I, because the Town has property and should not be getting rid of it. It's too bad that 50 years ago they screwed things up and nobody cared about it until after it had been that way for 60 years. Councilman Warren asked if Craig would put his recommendation in writing? Attorney said, yes because I've had that decision every since the beginning. When I do that, I'm going to put this in there. This is a policy decision, legally you guys could keep the yellow and the current location of the property. The basis for that is you've got deeded on the yellow and the physical location by Florida Statute, you've maintained a road for more than 5 years, you have a right to keep it. Therefore, when you guys give a deed to the yellow, and something else. You are giving away an interest that you have in property. You are however fixing a problem which is a dispute between 3 property owners as to what the status of the property is. If you want me to write something up I will before the next meeting. Clerk said, it will be in the minutes. Councilwoman Linkswiler said, when you don't fix the problem involving land, it just gets bigger and worse as time goes by and people die and things change so I think we should fix the problem. Mayor said, I agree with you Lynda and I think I want to take a vote here. I've only heard during this whole conversation this evening, 2 negatives and both negatives I've heard were from people that don't vote. I'm 100% for this, the Council knows it, I was 100% for it 3 years ago. I argued my case 3 years ago. Under Mayor John C. Bergquist Jr., we had a unanimous vote of everybody on the council, that said yes. After that, some things fell apart that had nothing to do with the council or the attorney or anybody else but now we're here again today. There's an agreement between all of the parties. I would like to take the vote now unless somebody else wants to say something. Anybody who's not on the Council and listening in, anything to say? Role call vote. Councilman Warren said, one thing that has to a part of this too, under the same circumstances were the parties different and it wasn't Hill's hardware, that we all know and love so well, would we be taking the same vote and feeling the same way today? Mayor said, well I know I would be because I don't want to get a \$5 box of screws and have to do 40 miles round trip to get it. Councilman Warren said, so then it's a benefit to the Town. Mayor said, it's a huge benefit to everybody in this Town. Mayor did role call, Councilwoman Mead yay, Seat 5 Yay, Seat 6 Yes, Seat 2 Yes, Seat 1 Yes and myself I'm a yes. We have unanimous decision with one abstention and Donna if you would record that please.

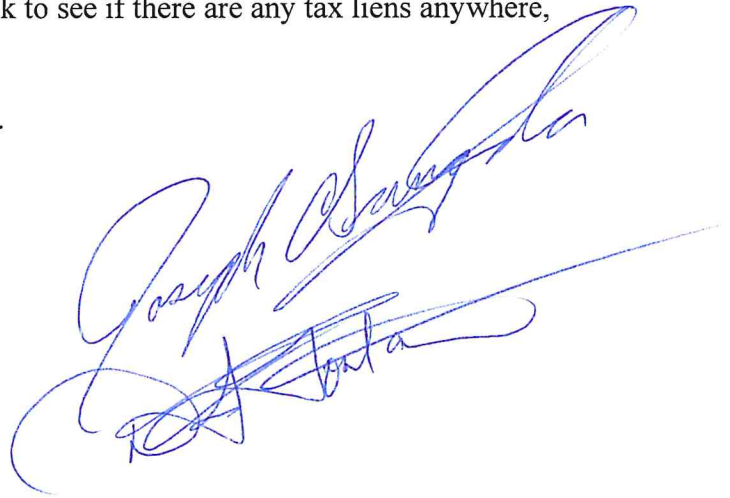
Councilman Warren made a Motion to adjourn.

Mayor said, Craig are you still on the call. What do you suggest the process is at this point? It's not going to be anybody on this Council. It'll be Cathy, you, Cathy's attorney, I don't know what you're looking for to be satisfied. You're going to have to do that with them before the next meeting. Attorney said, Cathy is going to need to get a title search and she should go ahead

and order the title search now and let's find out if we have a problem. CenterState is a smaller bank, they are much more easier to work with. Given the size of the property and everything else, getting any kind of release that Warren is going to want for clear title probably will not be a problem. That is something that we need to start working on now and I can't do anything until we get a title search back. Mayor said, I am leaving in this the hands of you 3, the attorneys and Cathy. Attorney said, I will send a message to Isaac tonight, the issue is whether or not there's any of this property is encumbered by a mortgage. Councilwoman Linkswiler said we also need a title search for Krupski's property to see if it has a mortgage or any liens. Clerk asked Attorney what was the title search you ordered a while ago? Attorney said, I don't think we did it on mortgages, I only did it for ownership to determine whether or not there was an easement or anything going down for the drainage that does behind the Pizza place and down to that pond on Perry St. We were looking at what kind of rights DOT had with drainage on those properties. That was the meeting we all went over to with DOT. Councilwoman Linkswiler said, any title work even a month ago would have to be updated because a mortgage could be done this week and not last week. Another thing would be to look to see if there are any tax liens anywhere, Federal tax liens.

Clerk said, the next meeting is on the 29<sup>th</sup> at 5:30.

Meeting adjourned at 7:37 pm.

A handwritten signature in blue ink, appearing to read "Joseph A. Santora". The signature is stylized with large, flowing loops and a long horizontal stroke at the end.

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <b>Evans CarrieAnn Marie</b>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>Pomona Park Town Council</b>	
MAILING ADDRESS <b>P.O. Box 602 Putnam</b>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
CITY <b>Pomona Park</b>	COUNTY	NAME OF POLITICAL SUBDIVISION:	
DATE ON WHICH VOTE OCCURRED <b>6/18/20</b>		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

### APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

### DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Carrie Ann M. Evans, hereby disclose that on June 18, 20 20:

(a) A measure came or will come before my agency which (check one or more)

- ☒ inured to my special private gain or loss; Employer
- ☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;
- ☐ inured to the special gain or loss of my relative, \_\_\_\_\_;
- ☐ inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- ☐ inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

I am employed by Rebecca + Bryan Krupski at Pomona Park Pizza

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

06/29/20

Date Filed

Carrie Ann M. Evans  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.



# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <b>Evans, Carrie Ann Marie</b>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>Pomona Park Town Council</b>	
MAILING ADDRESS <b>P.O. Box 602 Putnam</b>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <b>Pomona Park</b>	COUNTY	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED <b>06/29/20</b>		NAME OF POLITICAL SUBDIVISION:	
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

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For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

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**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

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**APPOINTED OFFICERS (continued)**

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I, Carrie Ann M. Evans, hereby disclose that on June 29, 20 20:

(a) A measure came or will come before my agency which (check one or more)

- ☒ inured to my special private gain or loss; Employer
- ☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;
- ☐ inured to the special gain or loss of my relative, \_\_\_\_\_;
- ☐ inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- ☐ inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

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I am Employed By Rebecca + Bryan Kropski  
at Pomona Park Pizza

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Carrie Ann M. Evans  
Signature

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