

**Punta Rassa Condominium Association
Notice of Board Meeting**

Date: Wednesday, July 21, 2010
Time: 9:00 a.m.
Location: Administration Building
15008 Punta Rassa Rd. Upstairs

Minutes

1. Meeting called to order at 9:00 a.m.
2. Establishment of Quorum
Present: Gerold Dehm, Chris Erickson, James Simantel, Eve Heffernan
Via Conference Phone: John Rosser, Charlie Deason, Margee Meyer
Also Present: Dell Adams, Owner Bldg 1
Resident's Present: 6
3. Approval of Minutes of June 1, 2010 meeting. Unanimously approved

4. Manager's Report

Dear Board Members, I am pleased to report the following:

A) We have utilized the ceiling in the Administrative Office for the storage of official records. As you can see, it is above the door of the rest room. We've put in a wood floor and have stored a couple dozen boxes. As you may or may not be aware, we're required to store records for seven years.

B) I have finalized negotiations on flood and casualty insurance and am pleased to report that we are \$11,598.00 under budget. This savings is the result of having the rebate raised from 12 to 15% on the flood insurance premium and raising the deductible on flood from \$1,000 to \$5,000. This savings from flood was \$7,515.00 which was raising the deductible from \$1,000 to \$5,000.

C) We have just finished replacing all dead sod and various plants. We're going to replant, in front of the Maintenance Building, shrubbery that compliments the color of the building.

D) We recently completed pulling wires through existing conduit in the rear of buildings 2, 3 and 4 to near the water's edge. These extra circuits can be used for architectural lights, Christmas lights, and in the event that the Board decides to approve it, the Wi-Fi system.

E) As I reported to you before, based on the instructions given to me by Treasurer, Jack Rosser, we have placed the following amount in CDARS® (which stands for Certificate OF Depository Account Registry Services): \$312,698.00. This money has been set up in an account that requires the signatures of both the President and the Secretary.

These deposits have been placed in various financial institutions and are covered by FDIC Insurance. They are for 4-week durations and will learn .35%. The reason the Treasurer wanted this done is that there was too much money in one bank and not under FDIC protection. The Treasurer also asked me to mention that he's in the process of developing an investment policy so that our investments are secured and learning the maximum safe interest they can. This policy will be presented at the Board budget meeting in the Fall.

F) Some good news, we've received \$13,188.00 from the insurance company for Bldg. 2 water pumps and manifold system. Some not so good news, our contractor, ProLink Fence, has evaporated. He has not returned calls nor can I locate him. The matter has been turned over to our Association Attorney and the police department. The man has received a \$1,700 retainer and left us high and dry. The Health Department has asked for a completion date. I've told them I'll have an answer in 30 days.

G) For the 3rd time I've been approached by painting contractors to demonstrate their skills, free of charge, so I've authorized them to paint the restroom roof green to match the rest of the canopies. This will give us continuity of color. The Administration Building will also be painted. Our only cost is for the paint.

H) Tree trimmers will commence their work July 20th.

I) I have changed hours for Maintenance personnel to begin at 7 a.m. rather than 8 a.m. to allow some relief from the heat of the day for the next two months.

J) Water proofing of the dock will begin as soon as weather permits. I would prefer and recommend to the Board that you consider painting those docks due to the longevity of this type of maintenance. To seal only, each and every year, the cost is estimated to be \$480.00 for outside sanding and power washing, along with our own maintenance personnel. Sealer is \$40 per gallon times an estimated 5 gallons. The alternative to this is to use a colored stain which increases the longevity by one year and is the same cost as sealer. If we use paint, we increase the longevity to three years or greater.

K) We have a leak in our main water line that provides service to Bldg. 4 which will be repaired within the next few days.

L) We are looking into waterproofing the mail deposit containers that have been moved to the outside of the buildings.

- M) I have contacted Sprint regarding draining on the roof and am waiting for that repair to take place so I can bring in Camp Rigby to raise the roof elevation under their equipment to eliminate the pooling of water.
- N) I'm waiting for Crowther to start repairs on roof 1. Apparently there's been a change in administrative personnel that has caused the delay. Regarding roof 4, because of the repairs done under warranty - I am able to have the repairs done from the original low bidder, Camp Rigby whose bid was \$3,450.00, for a reduced amount for \$1,573.00. The reason being is that a lot of the work was performed under warranty by Advanced Roofing.
- O) We have modified the garage to accommodate a closer and have reinforced it to meet wind codes and have replaced worn rollers. We will be repainting the building and the door shortly.

The Board discussed options regarding preservation of the dock (painting or staining). Jim Simantel pointed out the aesthetic value of a natural look. A resident presented his view regarding the value of natural preservation and provided information and a recommendation for a particular Cabot product which is a water repellent/preservation product. Waterproofing must be done every year. The cost would be 4 gallons x \$50.00 which is \$200/year. The product has a paraffin base. He suggests the docks remain natural.

Some sanding would be required. Power washing, in the past, had driven off the protection which resulted in some serious aging. Jim Walker asked for a Board consensus.

President Gerry Dehm asked for Board preference (paint, stain or natural water repellent):

- Gerry Dehm - stain
- Charlie Deason - stain
- John Rosser - stain
- Margee Meyer – stain
- Eve Heffernan - stain
- Jim Simantel – stain
- Chris Erickson – paint

Jim Walker was asked to go forward with determining the best method and best product for staining the docks.

5. Request from Dell Adams, Owner Building 1, asking the Board to determine if the Land/Air Easement that was approved by the Board in 1986 and amended in November, 1998 prohibiting any obstruction over 6 feet, if it applies to the trees that were in existence prior to the signing of these easements.

Mr. Adams presented his request to have all trees over 6' in height removed from in front of Building I. He presented documents showing that Bldg. I was granted a view lease in the Declaration of Condominium, so Bldg 1 owns that and occupies most of the foot print. It is an apurtenance which indicates it "belongs to". There is a 3rd part ownership between owners of Bldg. 1 and the waterfront. The Johnson's granted a view easement. PR Condo Assoc had litigation against Johnson's which was settled in 1998. It is Mr. Adams premise that the view easement belongs to Bldg. 1. There was a sliver of land 13' wide x 45' wide by the roadway that was surrendered and removed from the view easement area. The view easements states that there shall be a clear and unobstructed view from any structure, fence, tree or shrub, taller than 6'.

Mr. Adams stated that there are trees which adversely affect his waterfront and that Mr. Walker has already obtained an opinion from Assoc attorney. Mr. Veenstra's opinion is that it's irrelevant when the trees were planted (either before or after easement). Mr. Adams stated that his letter demands that the Assoc. send a letter to the Resort demanding that the trees be removed from the easement and at their expense. Units in Bldg. 1 are 80 sq ft larger than other units. Bldg. 1 also has deeded parking for each unit. Bldg 1 has some things going for it that other Bldgs don't have. Yet historically, Bldg. 1 units sell for less and Mr. Adams believes it's because of the view. Mr. Adams stated that the Board has a fiduciary obligation to protect the rights of the owners of Bldg. 1.

Board Discussion:

Chris Erickson stated that the easement requires us to contact Sanibel Harbor Resort and ask for removal of trees. We can re-landscape with plants that are lower, however, there will be a problem with the county which has a definite opinion about removal of particular trees. Some of those trees are protected trees. County is very protective of their native trees. Chris – the Strangler Fig is the tree of contention. Other options for plantings may be a good compromise. The county will look for an exchange.

Eve Heffernan – Believes that the people of Building 1 should make a joint decision about what trees should be removed.

Jim Walker feels it's a whole community issue.

Margee Meyer made a motion to table this discussion until the Board has have a reaction from a letter written to the Resort, response from owners of Bldg. 1, and further answers from attorney and the county. Motion was seconded by John Rosser.

3 yeas

4 nays

Motion failed

John Rosser – I live in Bldg 1 and am opposed to this resolution. I live one floor below Mr. Adams and there is no obstruction.

Charlie Deason – does not agree with Mr. Adam's. It is not just a Bldg. 1 decision. A lot of people like to sit under that tree and congregate. It is an asset to the whole community. He thinks that it is an association problem. He indicated that the issues were outlined well, however, the vast majority of people here want to keep the trees which were already in place when Mr. Adams moved here. Charlie Deason stated that the limitation of 6' was for the protection of Bldg 1 but suggested that the association leave this alone – don't open this can or worms and don't start anything with the Resort. There is a need to protect the interest of the 194 and said he'd never do anything unless most of Punta Rassa neighbors wanted the trees gone. If the majority want the trees gone, then as a Board member, he'd vote them gone.

Jim Walker read the attorney Veenstra's opinion:

“I received your package yesterday containing the Light, Air and Unobstructed view easement and your question as to whether the Easement provides that trees in place prior to the Easement have to be removed. The Easement does not include any carve-outs for trees or any other object in place at the time that the Easement was granted. Thus, any object or obstruction (tree, fence, structure or shrub) may be removed upon your demand at the expense of the owners of the property burdened by the Easement. It is immaterial whether the trees were in place prior to the time of the Easement or after.

One caveat to note – if the trees were in place prior to the execution of the Easement and if these trees exceeded the height threshold set forth in the Easement then there may be a defense to any request to remove them based on a legal theory of estoppel or laches. These legal theories could prevent someone from accepting a violation or breach (implicitly or explicitly) and then at a later date turning around and asking for it to be corrected. Thus if the trees have been in excess of the height requirement for some time and

nothing has been done about it, Punta Rassa may arguably have waived their right to have it corrected.” (Eric R. Veenstra, Quarles & Brady)

John Rosser suggested that further research be made and some comments in content from attorney be clarified. He stated that further information from the county would be important as well as input from the whole community. He suggested that the matter be turned over to Jim or set up a small sub-committee.

Jim Simantel suggested that a petition be sent to the whole community.

Motion made by Chris Erickson to let Jim investigate a lot further and make report at the next meeting. Seconded by Eve Heffernan. Unanimously approved

- 6. Recommendation from James Walker that the Board enter into contract with Connect Freely, LLC, for the purpose of providing wireless signal to be available to individual units at their cost. (No cost to association other than to provide power)**

Jim Simantel moved to accept installation of the WiFi system
Seconded by Chris Erickson. Unanimously agreed

- 7. Recommendation from James Walker to hire an engineer to do topographies and grade design for replacement of driveway and parking area asphalt.**

Two companies have submitted identical Scope of Work bids. Jim recommends that the Board go ahead with the engineering study, utilizing the lower bidder, Bean, Whitaker, Lutz & Kareh, Inc. of McGregor Blvd, Ft. Myers. The bids are for the engineering study only. These bids are good for life.

Bean, Whitaker, Lutz & Kareh, Inc.	\$10,700
Davidson Engineering	\$14,050

A motion was made by Chris Erickson that the Jim Walker go ahead with Bean, Whitaker, Lutz & Kareh, Inc. Motion was seconded by John Rosser. Unanimously agreed

8. Comments from the audience.

Resident suggested that pictures be taken from a lower unit of Bldg. 1; also that a very specific list of trees to be removed be made. He suggested that the Board go to the Resort and dialogue about it rather than making it a big federal case getting all the attorneys involved

Resident thanked the Board and Jim Walker for work done on behalf of the residents and stated that the place looks like brand new and costs have been kept down. He does have an issue with palm trees in front of the unit in building 4 and asked for consideration regarding planting of future trees. He said thanks for all efforts and for looking toward the future.

Charlie Deason asked about the fencing issue regarding Pro-Link. Jim Walker reiterated that we will do everything legally we can do to get our money back from the contractor since the State prosecutor has determined it is not a criminal case.

9. Adjournment. Chris Erickson made a motion to adjourn. John Rosser seconded the motion. Unanimously agreed

Respectfully submitted,

Eve Heffernan
Secretary