

**Sunrise Landing Condominium Association of Brevard County, Inc.**  
**Minutes of the Board of Directors Special Assessment Meeting**  
**Thursday, January 12, 2012**

**Call to Order:** Meeting called to order at 6:00 p.m. by President Chuck Zimmerman at the South Pool at 7200 N. Cocoa Blvd. Board members present: Chuck Zimmerman, Barbara Long, Beverly Thomas, Sally Mifflin, Pat Schwent and Dave Simpson. Secretary Kay Briley could not attend and Director Glen Michaels had to resign this week due to personal issues. Michelle Davis and Charlotte Hubert represented management company Reconcilable Differences. Unit owners in attendance that signed in: Helen Gedutis, Vicki Pape, Sharon Skaggs, Marcia Vallelonga, Glorinda Simpson, Donna Zimmerman, Frank Talbott, Needham Parrish, Gerald Cantin, JoAnn Garcia, Frances Gurnavage, Pamela Foster, Dave & Bev Carlson, Nate Carter, Doris Propheta, Jean & Walter Bobka, Mike and Janice Davis, Ed Neal. Quorum of Board members established.

**Engineering Presentation:** Joe Mayer of Bussen-Mayer Engineering stated that drainage issues are contributing to the seawall and asphalt problems and he recommended improvements to the drainage system before making repairs to the parking lot. Holes will need to be dug to look at the water tables and a full assessment made. St. Johns River Water Management would be notified of any design plans to modify the drainage system. Problems are that water in the retention ponds build up to higher than the river level, and therefore water cannot release into the river and the pressure pushes the seawall the wrong way, causing a breach or blow out.

Parking lot water cannot reach the retention ponds quickly enough and there is the offsite water coming from the highway down to the lower areas of the property and it is taking too long before water is discharged into the river. Control structures (concrete boxes) need to be installed and trenches dug and filled with gravel or rocks for the water to flow through when it leaves the retention pond. The water will flow through these under drains then out to the river. Joe stated that he is not an expert in seawall design, but that, in his opinion, this will definitely relieve or help solve the drainage problems. Once the drainage has been redesigned, patches could be made as needed to parking areas and a 1" asphalt overlay could be added. The focus of his proposal is to create a design that solves the drainage problem.

Floor Open for Discussion Regarding Engineer Proposal from Bussen-Mayer:

Pat Schwent contacted representatives in Tallahassee and they recommended that the Association find a contractor who could prove that damage could have been caused by runoff from the highway and get an estimate of repair costs. She asked if Mr. Mayer would guarantee that this drainage system will fix the problems. Vicki Pape responded, "An engineer gives you the design, then a contractor lays the control structures, elevation is checked, but there really isn't a guarantee." A contractor will guarantee against a crack in a structure for two years, but Mr. Mayer stated a guarantee cannot be given from his

engineering company. Pat stated there is a meeting January 17, 2012 at the Spirit of Joy Church in Orlando regarding highway drainage issues if anyone is interested in attending.

Pat mentioned giant bubbles in the pavement with water underneath found in the parking lot, which cracked the pavement and causes wear on our tires. Mr. Mayer recommended solving the drainage issues before working on the parking lot. Donna Zimmerman stated that water comes in the entrance, makes two rivers by the south pool and gets almost a foot deep then runs onto the pavement.

Barbara Long stated that the Association requested bids from 2 other engineering firms, but Mr. Mayer was the only one to give a written proposal. Bob Esser asked if Engineering is 10% of the total value of the construction costs, and if so, could the estimation of this project be about \$360,000? Mr. Mayer stated order of magnitude is estimated at \$ 100,000 - \$200,000. Terry Skaggs said it is usually 6-11% across the board.

Mr. Mayer stated the changes to the drainage system would be done on the east side of the retaining wall, as the landscaping serves as a buffer. It is best to catch the groundwater as low as possible, then reroute it. Concerns of water pouring over the retaining wall like a waterfall were mentioned, and Mr. Mayer stated if a wall is built the entire length of the property it will be more costly and only the problem areas were addressed in the proposal. Black pipes sticking out of retaining wall were questioned and concerns that EPA would not allow them were discussed. Barbara Long stated that we have permits from St. John's Water River Management for what has been installed.

Mr. Mayer clarified that the parking lot runoff has oil and silt and cannot be discharged directly into the river. Control Structures at the right elevation will help the water to get out faster and we can get permits for these. Mr. Mayer stated that control structures would be placed 20 ft off the seawall, flush with the ground or no more than a foot from the ground and will not affect the view for home owners. 18"-24" inch pipes will be installed in the wall, but water cannot flow directly from the pond to the river. The control structures will clean some of the impurities from the water before going to the river.

There was discussion about water in retention ponds –Water in the ponds is going to put pressure on the wall until it drains out. Mr. Mayer responded that with this system the water will be draining quicker and the water retained in the ponds will be at a lower level than it is now. Chuck stated that a seawall is meant to breath and the one we have was not originally built to breath. It was built with full panels originally, but now ½ panels are used. . To correct this problem now, the contractor will be removing the membrane and will be installing tiebacks and pilings and concrete deadmen. It is understood that the water comes over the wall during a storm, we are looking at this proposal to help drainage to occur faster. After owners commented on areas with no pilings, Chuck responded that the last serious breaks revealed the problems were where there were no pilings, but since 2010, we have put pilings in everywhere the repairs were made. Pilings will be added in areas where needed.

A resident asked how foreclosed properties will be assessed for these repairs, and asked why the Association can't sell these foreclosed properties to pay for the repairs. This will be discussed later in the meeting.

DOT is supposedly going to do a drainage study, and will be on site next Tuesday to meet with the Board. A resident felt the Board should wait for their findings. It was stated that Mr. Mayer will be aware of their findings and the plan modified accordingly.

Chuck reported that structural engineer Byron Evetts of Existing Structures will oversee the project and Waterfront Solutions will do the work on the seawall. He explained that the weep holes in the wall are not doing much as they are very small, and Donna Z stated that part of seawall is double walled, and some of it is not. When it storms, the water flows like a river through the property by the south pool. The river was high before the rain, then it rained and wiped out the docks. Pipes were down too low, so water could not drain out these pipes. Mr. Mayer advised to have a Structural Engineer or Seawall Expert identify the exact problem, and he advised to hire an engineer to find out why these weep holes are not doing anything. Chuck stated they get clogged up with sand. Byron Evetts had told us that the wall should not have failed, so we don't know why it failed but it did.

Mr. Mayer stated that the normal elevation of the river is at level 1, and Sunrise Landing's water table in the ponds is at 4, so there is a 3 foot difference on a normal dry day. There is something causing an issue; maybe the membrane is blocking the drainage. Mr. Mayer was thanked for his time, given a copy of the seawall contractor's bid, and left at 7:10 pm.

**Appoint Director to Fill Vacancy:** Due to Glen Michaels' recent resignation, the Board must fill two vacancies on the Board. Sharon Skaggs and Gerry Cantin offered to serve, so Pat Schwent motioned to add Gerry Cantin and Sharon Skaggs to the Board, this was seconded by Dave Simpson, and all were in favor. Motion passed and both new members were asked to join and vote on the rest of the meeting issues.

**Discussion & Approval to Hire Engineer Joe Mayer of Bussen-Mayer Engineering Group for Drainage Engineering:** Barbara motioned to sign a contract with Bussen Mayer for \$33,380. (excluding the soil testing and permits) She stated that the Association has already spent \$100,000 on seawall repairs in the last year, and we need to consider addressing the problem instead of continuing repairs and accruing more expense. Owner reported that surveying is being done for roads to be repaved on U S 1 . Sally Mifflin stated that the road repairs will help us later down the line, but we still have a problem with the water table on our property as water is 3 ft higher than the river. Chuck Z stated that we can approve the contract today, but we don't have to execute the contract until we meet with DOT on Tuesday. Modifications could then be made to contract if needed. Beverly seconded the motion, Sharon abstained because she had not had time to read the proposal, the rest agreed, motion passed. Chuck stated that no action will be taken until Tuesday.

Loss Assessment - Barbara Long reported that she had called her insurance company regarding the deductibles and the insurance company will not pay for the engineer. For owners to file with their insurance, this special assessment will need to be broken down by: 1) Loss Assessment Damage from the Storm and 2) Engineering Drainage Study Costs. It will depend on each individual's insurance coverage as to how much each owner will have to pay, but most policies have a high deductible, so this may not be covered by insurance.

Gerry mentioned the FEMA loan that had been taken out back in 2005. Barbara stated that we have a balance of about \$370,000 on that loan and are paying \$2,000 a month on this loan, but that Jerry is welcome to check into adding to it. Barbara stated that the seawall repair will be around \$38,000.

**Discussion & Approval to Hire Engineer Byron Evetts of Existing Structures to Oversee Seawall Project :** Chuck summarized the responsibilities of Byron, per his contract: Mr. Evetts will come by and review the work as it is being done by Waterfront Solutions to make sure it is being done according to the proposal. This includes (3) Site Inspections, visits to inspect removal, prepour of tiebacks and final and a Field Report of findings and recommendations. Motion was made by Beverly to hire Byron and Existing Structures, at a cost of \$2,570, not to exceed \$2,895.00, Sally seconded, all in favor except Sharon who abstained from voting as she had not seen the final proposal.

Docks- Owner requested permission to repair the docks with other owner volunteers. . He presented a diagram to board. Barbara stated that the contractor will be using the wood in the parking lot for the benches and the handrails, but it cannot be used where the water would touch the wood. It was agreed by a number of Board members that while it would be wonderful to allow this, owners cannot make the repairs due to liability issues, based on the Association attorney and insurance agents' opinions. When asked, manager Michelle stated that workers comp is only available for volunteers in the office because there are no power tools used, or real danger to office volunteers. Barbara stated that Ranew Insurance was contacted, and Josh stated that jobs that are usually completed by a contractor elsewhere need to be done the same way. Pulling weeds, office work, picking up trash; those are jobs volunteers can do under the policy. The insurance agent said they would also not cover liability issues for five years after the work is completed by volunteers, if anyone is injured on the dock.

**Discussion and Approval to Hire Waterfront Solutions to make needed repairs to the Seawall and Docks:** A motion was made to approve the Waterfront Solutions Proposal by Barbara and seconded by Beverly, all in favor. Owners opposed the decision, but the decision is made by Board members only and the owner's votes are not counted. Owners are encouraged to join the board if they would like to vote. An owner asked why the same company that built the wall 5 or 6 years ago will be re-building the wall again? Chuck advised that we will have an engineer more involved this time, to make sure the seawall has a lasting design.

Sharon Skaggs asked if we could get the sod and fill dirt cheaper than the TC Lawn bid noted. Sally M stated that this is not a firm designated price listed on the proposal. The contractor gave a high estimate but the amount will be based on the actual amount used. Equipment will be brought in to the closest location to save costs. Sharon suggested another vendor besides TC Lawns also be considered for the sod/fill dirt replacement.

### **Discussion and Final Adoption of Special Assessment for Seawall Repairs and Engineering Costs for Drainage:**

There was discussion about selling the foreclosed properties that the Association now owns. Michelle clarified that the Association holds TITLE for now to all of the units obtained through a Sunrise Landing foreclosure action, but it is subject to the mortgage holder's first priority lien standing. Until such time as the mortgage company forecloses on the Association, we can rent these units out to obtain some money to help offset past due monies owed, but we do not own these units free and clear. The discussion then turned to units currently not paying monthly maintenance fees or are in foreclosure status and how they would be included in calculations of the total number of units paying the special assessment. Sally stated that although all units will be billed, in actuality the board can only anticipate being able to collect from 220 units at this time. In order to ensure we have sufficient funding to pay for the engineering drainage study and the seawall/dock repairs as payment is due, the calculation will be based using 220 units. As foreclosed units are sold, money will be collected at the time of sale for the special assessment money owed and the money collected will be put back into the applicable reserve accounts. Should it be needed, the board could consider approving a special payment arrangement on an individual basis for those unit owners facing severe financial hardships. However, liens will eventually have to be placed against any unit not paying this special assessment. Bob Esser stated the Assessment letter needs to be very clear as to what amount is due for the loss assessment so that unit owners can work this through their insurance companies. Chuck asked for a motion to approve the assessment of \$460.00 per unit with first payment of \$230 due February 15, 2012 and the second payment of \$230 due March 15, 2012, subject to a late fee if not paid within 10 days of the due dates. Any funds collected over the actual costs will be put into Seawall Reserves. Beverly motioned to approve the assessment and Dave Simpson seconded, all in favor.

U.S. 1 Highway Repairs –When asked, Bob Esser said it will take about two years for the highway drainage work to be completed out front. Pat Schwent advised not to spend a lot of money for parking lot repairs until the road work is completed, and stated that the road is definitely causing drainage issues. She said that a letter with photos was supposed to be sent to State Representatives, but that they were sent without pictures, and she was not pleased. Barbara reported that she had contacted Senator Haridopolos' office, and was told they cannot help with this issue and recommended contacting the Army Corp of Engineers. Barbara contacted them and was also told that they cannot help us. Patty Quant will try to get in touch with Corp of Engineers again, and a copy of the letter and photos will be given to Pat. She stated that when we had the hard rains, there were big bulges in the

pavement, and the photos would help to show that. Barbara stated that we have two photos, but they do not sufficiently show the damages. Pat will try to get more photos the next time it rains.

**Approval of minutes from November 10, 2011:** Barbara made the motion to approve the minutes of the November 10, 2011 Board meeting as written. This was seconded by Beverly Thomas, all in favor except Sharon who abstained from voting since she had not yet read them and had not stayed for the entire meeting.

### **New Business:**

Approval for Annual Meeting to be held March 21, 2012 at Blessed Sacrament Church: There was discussion to save money and hold the meeting at the pool, but a number of people were worried about space availability and weather conditions. After discussion, motion made by Barbara to hold Annual Meeting on March 21, 2012 at Blessed Sacrament Church, at a cost of approximately \$150.00, seconded by Sally, all in favor.

Owner Request for Landscaping Improvement for Individual Unit: Dave Simpson addressed the Board and Owners. He apologized for doing things without approval, but thought he would obtain it at the December meeting, so scheduled a concrete edging contractor prior to obtaining formal board approval. He summarized that he and his wife wanted to beautify the area behind their home and that this added value. His wife felt there were a number of other back areas where owners had done their own work without approval.

There was discussion about asking the owners to vote on allowing this modification, but 75% of owners would have to vote positively for it to happen. With the expense of mailing the ballot and the doubt that 75% would participate, the option was withdrawn. Sally stated that the Board has to uphold the documents whether they agree with them, whether the modification is attractive or not. The Board has to make these tough decisions for the good of the whole community, not on personal preference.

After much discussion, Chuck stated that there are two choices: 1) The Board can vote, knowing that they are not allowed to approve a modification to the common areas, thus voting no to allowing it. Or 2) Consider allowing the owners to vote on making modifications to the documents to allow these sorts of changes to the common areas. Jerry motioned to make a modification to documents by straw poll, Dave seconded. Vote of Board was 3 in favor, 5 opposed. It was noted by a unit owner that Dave should have abstained from voting since the alteration in question was his. After further discussion, modifications for the owners to vote on would have to be more specific before the Board can vote to allow owners to decide. This motion was tabled until the next meeting.

**Set Next Board Meeting:** The next board meeting is set for February 16, 2012 at 6:00 p.m. at the Sunrise Landing office.

**Adjournment:** Motion to adjourn made by Barbara, seconded by Sally. Meeting adjourned at 8:15 p.m.

Respectfully submitted,

Charlotte Hubert, Administrative Assistant and Michelle Davis, Manager  
(1/16/12)