

Sunset Bay Merritt Island Condominium Association
Minutes of the Board of Directors' Meeting
Thursday, July 6, 2017

Call to Order/Establish Quorum of Directors: President Jeanette Shultz called the meeting to order at 1:00 pm in the clubhouse at 225 S. Tropical Trail. Present at the meeting were President Jeanette Shultz and Secretary Diane Dahmer. Attending by conference phone: Vice President Dale Hartzell, Director Robert Moskovitz, and Treasurer Coral Bailey. Lynn Hiott with Reconcilable Differences was also present. No Unit owners were in attendance.

Approval of the Board Meeting Minutes of February 23rd: Jeanette made a motion to approve the minutes from February 23rd as written. Diane seconded, and all were in favor.

Financial/Collections: Lynn reported the following: As of **May 31, 2017, the** operating account at Sunrise Bank showed a balance of **\$262,951**, but of that amount **\$28,975** was from prepaid assessments, leaving a balance of **\$233,966**. There is **\$260,368** in the Reserve Account for future repairs. Accounts Receivable are at **\$34,645**. The current profit and loss statement shows the association under budget by **\$7,802 for the year**.

Collections Update: Lynn reported on the following accounts: **Unit 219**-Final Judgment hearing was set, but they filed documents to stop the hearing. Tenant is paying rent, however, this is split three ways: Alliance, Association and attorney, so Association will only receive \$300 per month for a while. Amount owing on unit is over \$6200 without late fees, interest, and attorney fees. **Unit 108**- Owner made a large payment with a coupon sent to Sunrise Bank for \$7366.46, plus one-month fee for June of \$479. But this is still moving forward with foreclosure and Alliance will not stop the process unless full payment is received. **Unit 303**-will probably will be paid in full with one more month of rental income. The owner's management company will take over paying monthly HOA fees and rent will no longer be collected from the association. **Unit 808**-No communication from owner and owes over \$2000, so was sent to Alliance to begin collections and foreclosure action. **Unit 116**- Demand for Rents was made to the tenant, so tenant will pay \$850 per month directly to the association until account is paid in full. **Unit 614**- Mailed Demand for rents to tenant, mailed owner same package; we have no email or phone number for owner. Sent to address in SC and to a MI address where rent is to be paid according to lease. Tenant should start paying \$850/month to Alliance starting in July. **Unit 609**-Emailed owner that he owes \$527.28 and he replied that he will pay by end of June. **Unit 616**- Past due \$1864.85. Tenant pays HOA fees, so manager met with her, accepted \$500 good faith payment, and agreed to ACH monthly payments of \$600 per month (\$200 going towards balance due), starting in July. **Unit 220**- has been on a payment plan and will be paid in full as of August 1st.

Unfinished Business:

Seawall Update: Finally, it has been completed and looks great! Waiting on sod to be installed, but the whole state is on hold for sod due to the amount of rain we are getting. Still holding 10% of contract price and will not release until we see final permit signed off from Brevard County.

Shoreline Update: This project is nearing completion; just waiting on sod to be installed. Pictures of both projects will be included in the next newsletter.

Roof Update: Repairs were completed on buildings 100, 400, 500, and 900. They were leaks from ridge vents. Some of these have new roofs installed by Rock Roofing, but they didn't install the ridge vents securely and the nails popped out causing leaks into units. All have been repaired. A discussion was held about moving forward with another new roof on one of the four remaining buildings. At the next meeting, the Board will review the bids from Total Home Roofing and move forward with another roof replacement by end of this year.

Building 900 Emergency Repairs Update: All the required work in 906/902 has been completed. The floor joists have been replaced, drywall replaced, and gypsum board replaced. All was properly sealed so we should not have any further issues. Both owners are happy with the work. Brevard County signed off on the permits.

Irrigation: Jody has been working hard and diligently on the irrigation. He has the front and side of the property working properly. He had issues locating valve boxes by the 900 building, but with Brian's help in digging them up, each week he is able to get another zone running. He is also working to run irrigation to the new sod and plants at the seawall and shoreline restoration.

Bicycle/Kayak registration with decals is currently underway. All residents have until August 15th to register their items with the office, with a picture of the item(s). Many residents have already registered, and some snow birds have provided us with pictures or locations and we have applied decals to them and registered them. After August 15th, we will remove all unregistered bicycles from the garages and into a locked garage. Management will then email residents again about the urgency in registering bikes and kayaks. If they go unclaimed on October 15th, we will donate all items to the local church or to the BCSO. We will have photos to show items that were abandoned. Once the bicycles have been cleared away, we will open one of the three garages by the 400 building to house kayaks/canoes and two bicycle garages. That will help make storage fair for all in the community.

Review Plans to Conceal compactor area: Brian has given drawings on these, but will discuss in more depth at next Board meeting.

New Business

Additional Surveillance cameras: There is availability in our camera system to add 4 more cameras. Discussion happened last year on additional cameras. John has proposed adding cameras in areas that are not under surveillance currently, which are: towards the tennis court/driveway; towards trash compactor/disposal area and back gate; camera by 900 bldg. to oversee the sitting area and back of 600 bldg. and walk paths, and a camera by the BBQ/dock/fire pit area, because a lot of parties are held here and many do not clean up. In order to add the additional cameras, another wireless link must be installed to communicate from the office to the tennis court, trash and 900 areas. With this installation, the entire community will be under surveillance. We only have the front half of the community under surveillance right now. Robert supported adding the additional cameras, and many residents have asked and supported adding additional cameras. Jeanette made a motion to approve installing four additional cameras at a cost of \$4,000. Diane seconded, and majority were in favor, with Dale opposing.

Rules and Regulations Draft to mail to Owners: Draft rules and regulations were emailed to the Board to review. Lynn stated that the Board has the authority to amend and approve rules and regulations periodically. The Board felt the rules needed to be explained in more details so that all residents would understand them. The fining committee also needed clarification so that they have the ability to fine violators. Lynn requested that the Board approve the Draft version so that they can be mailed out to each owner. The owners will then be able to voice their concerns at the August meeting, prior to the Board approving and/or adopting the new rules and regulations. Jeanette made a motion to approve the draft to mail to all owners with a cover letter letting them know that they could submit their questions or concerns to management prior to the meeting so that they could be discussed. Diane seconded this motion and all were in favor.

Amendment for Assoc to approve new buyers/renters with an administrative fee applied for a background/credit check to be completed by BOD. The Board would like to send an amendment to all the owners to vote on allowing the Board of Directors the authority to approve new owners and new tenants by charging an administrative fee for completing a background/credit check on each new resident. The cost of this would be \$50 per person. With this amendment, the Board can then require all residents to register with the office before move in. If the resident has felonies (sex predator, armed burglary, drug charges, etc.) this would give the Board the ability to deny residency at Sunset Bay. If two names are on the lease, both occupants pay the \$50 per person and get background checks on both. Residents under 18 are not required to complete a check. Currently, the Board has no authority to approve or disapprove anyone living in the community. Jeanette made the motion to have the association attorney write the amendment to send to

owners for the vote. Jeanette also requested that the attorney write up another amendment restricting the size of incoming dogs to 30 pounds and grandfathering in those already living here. Dale seconded the motion and all were in favor. Lynn stated that once the attorney completes the draft amendments, she will email it to the Board to discuss before sending it out to the owners for a vote. We hope to get this amendment sent to all owners in October with the proposed budget mailing.

Clarify Assoc versus Owner Responsibilities: Recent leak issues made management and the board request a legal opinion on responsibility. One unit stated that their water bills were extremely high and wanted the association to find the water leak that could possibly cause the high water bills. The second unit had mold in their ceiling, which they felt was caused by the unit above not properly repairing a leak. Attorney Frank Ruggieri submitted a legal response: **Maintenance Provisions:** Section 3.2 of the Declaration defines the unit boundaries (versus common elements). The upper and lower boundaries are the unfinished surfaces of the ground floor and ceiling. Significantly, the perimeter boundaries extend to the ***back of the drywall, meaning drywall is a part of the Unit and the Unit Owner's maintenance responsibility.***

Section 3.3(c) is entitled "Miscellaneous Areas, Equipment:" and references areas and equipment outside of a unit which only service an individual unit. This includes air conditioning equipment and hot water heaters. These areas are deemed limited common elements and are the sole responsibility of the Unit Owner. 3.3(d) takes this a step further by referring to "any other portion of the Common Elements, which, by its nature, cannot serve all Units are deemed limited common elements to be maintained by that unit owner.

Section 7 then addresses maintenance responsibilities and 7.1 addresses Units and Limited Common Elements. This section specifically refers to electrical, plumbing, etc., either in the unit or limited common elements. When you read these provisions together, any electrical and plumbing that only services one unit will be a "limited common element" and the unit owner's maintenance responsibility. **This responsibility is limited to "maintenance items".**

Casualty Responsibilities: The casualty responsibilities are determined by whether it is an insurable event and what the statute says about insurance requirements for condominiums. First and foremost, the Board has to distinguish between a casualty event/damage and maintenance. We are only talking about damage caused by an event that would be covered by a casualty policy (i.e., fire, windstorm, etc.). The Association's insurance policy covers what is required by the statute. The statute requires that the Association insure all common elements, which includes limited common elements. The statute also covers the drywall and extends to the "unfinished interior surface"

of the drywall. This ***does not mean our documents are inconsistent with the statute. The distinction is casualty vs. maintenance.***

The above provisions address maintenance while the statute dictates the boundaries for purposes of responsibility to insure against a casualty event. There will be instances where the Association's casualty policy would pay for repairs to drywall and "limited common element" pipes because the need for repairs was caused by a casualty event. If the situation involves a routine maintenance issue (leaky pipes damaging drywall and causing black mold), the pipes and drywall are the unit owner's responsibility.

Three Questions: The above leads to three questions that should be asked with any situation that arises regarding maintenance/repair issues:

- 1) If it is outside of the unit boundaries, does it only service one unit?
- 2) Is the need for repair a result of a casualty event or a maintenance item?
- 3) Is there any evidence that the need for repairs was caused by negligence, including a negligent failure to maintain?

Negligent Failure to Maintain: If either a unit owner or the Association can be shown to have been negligent in their obligation to maintain and the negligence caused the need for repair, the negligent party will be responsible for the repairs. Further, the other party's insurance may treat it as a casualty event. For example, the black mold situation in the walls involves two leaks in an upstairs unit, with the second one being a result of the upstairs unit owner possibly performing a negligent repair to the pipe/faucet. The downstairs unit owner and the Association may be able to get coverage for any damage caused to the downstairs unit and the common elements by their respective insurance policies as this may be treated as a casualty event under one or both policies. In that case, the insurance company would repair their respective damages and go after the upstairs unit owner that was negligent. If the damages to the common elements are not covered by our policy, we would have to pay for the repairs and pursue the negligent unit owner.

Two Situations: The one situation involves pipes outside of the buildings that run underneath the AC and only service one unit. If that is the case, it is that unit owner's responsibility to make the repairs.

On the mold situation, it was an upstairs pipe that leaked, so that is the upstairs owner's responsibility. He is responsible for any ***additional*** damages caused by the leak. Consequently, any damage to the drywall would be the unit owner's responsibility. We would have to repair any damage to common elements like wall framing and structural flooring in between the floors. (Like what was done in unit 906/902).

The Board discussed these issues in length and wanted to remind ALL OWNERS that it is very important for them to maintain insurance on the inside of their units. The association carries insurance for the envelope of the building, but it is the owner's responsibility to cover themselves for inside their units or damages to other units. EVERY unit owner should have an "HO6" policy even if they paid "cash" for their unit and there is no mortgage. Most of the time, the office will tell owners that they MUST contact their insurance agent first to start the claim, especially when it affects surrounding units.

Ratify ARC Approvals Unit 806 requested approval to install white framed full view storm door on front of unit. Unit 608 asked to install double hung white window on balcony/patio area. Unit 502 asked to replace all windows in unit (Total of 10) with double hung white windows. Jeanette made a motion to approve and ratify the ARC approvals as stated above, Diane seconded, and all were in favor.

Landscaping Committee: There were no unit owners present for this meeting, so no committee was formed. Still looking for volunteers for this committee.

Manager's Report: Volusia Patio-A Proposal was requested for re-strapping chaise pool chairs at \$68 each (have a total of 24), Re-strap table pool chairs at \$49 each (have a total of 28), Replace fiberglass table tops at \$135 each (have a total of 6), Replace umbrellas with commercial grade and not residential grade at \$259 or \$349, need 7 of these. Total cost without umbrellas is \$3987. Umbrellas cost of \$1554 or \$2094. It was asked that the Board consider doing half of the chairs, table tops, and umbrellas this year and half next year. Cost this year would be \$2770 for half new items, then next year spend another \$2770 for the other half. The pool furniture is lacking and some is dry rotted. The tables have been repaired as much as they can be. After discussion, Jeanette made a motion to approve to replace all the table tops and to replace all the umbrellas this year. Next year, they will re-strap all the chaise chairs and pool table chairs. Coral agreed to look at the samples and choose the umbrella color. Coral seconded the motion and all were in favor.

Future Repairs: Lynn asked Joe with JAG to submit a proposal on the stack in the 300-building affecting unit #304 and above with the enclosed patios. Due to all the wood rot and issues, this will have to be repaired ASAP. As of this meeting, no bids have been returned for review. Unit 421 had roof damages. Brian inspected found no clear leaks from roof, but feels that the decking and soffit is rotted and is the cause of the leak. He is working to get this repaired with John. Unit 203/214 has rotted rear balcony walls and will need to be repaired.

Set Next Board Meeting: It was agreed that the next meeting will be held on **Thursday, August 24th at 1 pm** in the clubhouse.

Adjournment: There being no further business to discuss, the meeting was adjourned at 2:22 pm by Jeanette Shultz.

Respectfully Submitted,
Lynn Hiott, CAM #35322
Reconcilable Differences, Inc.