

**MINUTES OF THE
MEETING OF THE BOARD OF DIRECTORS**

Date: Tuesday, May 2, 2023

Time: 7:00pm

Place: Clubhouse

I. ROLL CALL – Present was Bob Burke, President; Al Bishop, Vice President; Sandra Reed, Secretary; Suzy Mossucco, Treasurer; and Shirley Ross, Director. Also present was Annmarie Coniglio, Property Manager.

II. CALL TO ORDER – Bob called the meeting to order at 7:00pm.

Bob Burke: We'll run today's meeting a bit different than the last 2. We will only acknowledge or respond to comments or questions from those who are first recognized after raising their hand silently.

Before we vote on any topic, we'll call for 1 minute Questions - please raise your hand and wait to be recognized and after you are, proceed to the microphone, say your name and address and ask 1 question.

After all questions are done, then we'll ask for up to 2 minute comments. Raise your hand, wait for acknowledgement and go to the microphone name and address and tell us what.

We'll answer your questions and listen to your comments. If you need clarification on a question, please say so after we answer. If we need clarification on a comment, we'll ask you.

III. APPROVAL OF AGENDA - **Shirley motioned approval; Suzy seconded and the motion carried unanimously.**

IV. APPROVAL OF MINUTES – **March 16, 2023 – Sandra motioned approval; Suzy seconded and the motion carried unanimously.**

V. REPORT OF PRESIDENT

Bob Burke: Today I'll give you an update on 4 items not yet ready for any decision.

First is the pool deck. We have approximately 500 sq ft of visible kool deck separation and an unknown area of additional separation. We have Kool Deck as well as reflective paint that keeps it cool in the summer sun. Kool deck is a low heat content material that is applied as a roughly ¼ - 3/8ths inch layer over the concrete base. It cannot hold a much heat energy and also reflects the high energy sunlight so the deck remains at comfortable barefoot temps in the summer. Annmarie presented me with a \$4k deck repair estimate shortly after the election from the pressure washing company that did our sidewalks. I've

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since interviewed 4 Kool Deck pool construction & repair companies and 5 painting specialists.

The reason for so many visitors is that our Kool deck has much more damage than meets the eye. Every one of them has scraped around the edges of visibly and barely visibly separating kool deck. It is separating from the concrete base in many areas. Inspectors observed that the concrete surface was not prepared with a layer of primer.

Bids in hand range the total cost from \$8K to \$89K. Paint alone for the whole deck costs about \$5K. The first step to figuring out what it may actually cost is to pressure wash it at <3K psi to see how much kool deck comes off. There may also be stain used in new kool deck, which would reduce the cost a lot if we have to replace all the Kool Deck.

Now for the reserve study

We're in an Aug 2 inspection slot by the JR Frazer specialist and have been asked to deliver the specs, drawings, contracts, life expectancy and cost of all known repairs & replacements since 2016 and R&Rs anticipated for the next couple years. When delivered, we'll be waitlisted for earlier study dates.

Next is common grounds lawn fertilization, weed & insect treatment

To remove materials markups in our landscape maintenance bids, we'll purchase them from suppliers for turf treatment , mulched areas and plant beds then either have them delivered or picked up by the landscape contractor. So we bid the turf treatment out directly to 3 vendors. One bid is in hand two more are being written.

We end now with the Tree root-driven Infrastructure Destruction Study

Here are some known facts:

- We owners have spent \$374K to repair and prevent and repair the Live Oaks destruction of our sidewalks, curb swales, irrigation pipes & valves, sewer connections, asphalt in the street, pavers & their aprons since 2016
- The damage accumulates as time goes by
- Many Treasure Coast HOAs are removing the destructive trees
- I have several bids to remove the trees on a program basis and the lowest is \$350/tree at quantities of 15 up to 90 on an order
- The cost of a sewer intrusion is between \$3,000 - \$6,000
- The cost of sidewalk replacement was \$500 / section in 2017 and \$700 in 2019 when we did it
- Several folks have had the sidewalks & pavers replaced or repaired 2 or 3 times
- The cost to replace a street curb swale section was \$6500 in 2020
- The cost to repair an irrigation break and remove the tree cost \$6,200 in 2015 and \$8700 in 2020
- The cost to replace 5 sq ft of asphalt was \$900 in 2020
- The cost of tree driven infra destruction in January was \$9k
- To curb the worst of the destruction we buy a \$300 video snake kit & sewer connection removal key then examine all sewers within 15 ft of the live oaks for intrusion and remove all intruding trees

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- The cost to repair a irrigation break caused tree roots and remove the tree was \$12K in 2022
- Every live oak's roots between the street and curb will eventually break or lift the sidewalk and may lift the curb swale or intrude beneath the road asphalt
- Many live oak's roots near a sewer connection are likely to break the sewer pipe then intrude for the water
- Every live oak's roots near a driveway will break the paver apron and lift the pavers multiple times
- Every live oak's roots near an irrigation valve is destined to break it
- Palm tree roots don't break the infrastructure they grow hundreds of roots and each root is the size of a pencil to a thumb. They grow down not wide and the trunks can bend flexibly in a hurricane to stay in the ground. Rumors that they are easily torn out by hurricanes is false.

Member Comments:

Fred DiSisto said that tree roots could be removed with a jackhammer.

Bob Burke said I like that idea better than my own and will research it. It needs to stop infrastructure damage and deliver economic advantage to owners.

A few said they like the trees and don't want any or all of them gone.

Bob Burke said if the study pans out they're not all gone at once and those that have caused the most damage would be first.

Ron Frantantoni said the trees roots have been causing trouble for years and are a well known and expensive problem.

- VI. MANAGER'S REPORT – Annmarie gave the Manager's Report. A written copy of the committee reports was made available to the Membership.
- VII. REPORT OF COMMITTEES – A written copy of the committee reports was made available to the Membership.
- VIII. APPROVAL OF REPORTS – Shirley motioned approval; Suzy seconded and the motion carried unanimously.
- IX. UNFINISHED BUSINESS – None
- X. NEW BUSINESS
 - a. Landscape RFP – Suzy explained the landscape contract for 2021 and 2022 was priced at \$36,000 but there was \$158,000 of extra work done, with labor being the lion's share of the no-bid work. Bob went on to explain that the landscape RFP was sent to five landscape providers: Royal Green, Vero Classic, Omar

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Zuniga, Joe Arellano and Steven Marciano. We received two bids, Jose Arellano and Omar Zuniga. Jose came in at \$39,600, which is a reasonable price. We will get bids from multiple vendors for the previous no-bid work to reduce costs, especially labor costs.

Member Comments:

David Rosenthal – As a former partner in a management company, it is very bad business to hire someone who lives in the community, especially someone who already has a negative track record. It is much better to have an arm's length relationship.

Fred DiSisto Agrees to not hire someone who lives in here and as far as removing the oak trees, approval from the CDD would also be needed.

Hugh Healy – Jose has been working here for over 18 years and has done a great job and he has done work at no charge. And when he did bid on work, it was often the lowest bid.

Priscilla Winder – You mentioned that you want to reduce the infrastructure costs. What are you proposing to replace the oak trees that will provide the same shade and care for the wildlife. Palm trees just won't do it. It's short-sighted to just think about cutting them down.

John Bardsley – What is the difference between the two bids, dollar amount? You gave the amount of Jose's bid, but not the other.

Bob replied that Omar's price came in about two and a half times higher than Jose's bid.

Sandra noted that she did not see any of the bids, and only has the RFP. As a board member, she needs to know what the prices are and see their submissions, in writing.

Bob noted that it was a mistake on his part to not send the RFP responses to the rest of the board.

It was suggested that Mrs. Burke go home and get Bob's computer so that all board members can view the bids received and this item be picked up again as the last item on the agenda.

After discussions, **Sandra motioned to table this item; Al seconded. The motion failed 2-3 with Bob, Suzy and Shirley opposed.**

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- b. Secret Ballot - Bob explained that by law ballots are official documents and are able to be inspected upon request, which means Members can see who voted for who. We had secret ballots for several years until around 2016. During the campaign I discussed the secret ballot with most people. The secret ballot poll reveals that 56.5% said they want a secret ballot and 43.5% said they do not want a secret ballot and the margin of error is 7.58% .

Member Comments:

Sharon Broschart – How many people actually responded to that poll?

Bob explained that 62 responded.

Sharon went on to explain that based on that, the percentages are not correct.

Priscilla Winder – Received and responded to the email. How do you monitor that each home only gets one email?

Annmarie explained that each home only has one email address that is inputted into the system by the office staff.

Priscilla went on to explain that 88% of the people did not respond, which means the margin of error can go either way and is not accurate due to the small number of responses. We should not decide on whether or not to use a secret ballot based on these results. Moving to a secret ballot would not be a cost savings.

Jim Grubb – All of this vote information needs to be reviewed by an attorney specializing in HOA law. Let's do it the right way. We did it the right way before.

Janelle Hertz – All we are doing is adding to our expenses. Now we have to consult a lawyer for changing the way we vote, etc.

Ron Frantantoni – Never had a board meeting this well attended unless the board was going to talk about something controversial. The only way to do it correctly and get people to respond, is by US mail although that is costly. And that goes for both voting and polling.

No motion was made on this issue and it will be held over for further consideration.

- c. Additional Trash and Pet Waste Receptacles – Shirley introduced this and explained that one pet waste station would be placed at Sunberry (by the bench; one at the back gate; one by the lake at the main entry; and one by the dumpsters (along the sidewalk near electrical box). Photos of examples of the pet waste stations were made available and discussed.

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Member Comments:

The following Members spoke against pet waste stations: Lee Brockway, Karen Erickson, Sharon Broschart, Sheryl Eddy, Pamela Hines, Richard Lininger, Fred DiSisto, and Susan Rosenthal for reasons such as: it is the owner's responsibility to carry poop bags; poop stations look tacky; it would take daily maintenance due to the odor; non-dog owners should not be responsible for poop stations and the cost of them and the cost to maintain them; and, the board talks about possibly raising dues but continues to bring up things that cost money.

Speaking in favor of the pet waste station was Sherry Burke, who feels they would help with the people who do not pick up after their dog.

Shirley noted that she brought this forward because she was approached by residents.

Shirley motioned approval of four poop stations; Suzy seconded. The motion failed 1-4 with Shirley, Bob, Al and Sandra against.

- d. Contractor for Maintenance – Tony Rossman – Bob explained that Tony is a resident and is skilled, reliable and available at short notice. He is licensed and insured and Bob was able to review his background and his references and the association is looking at using him three days a week for approximately eight hours a day and his pay would be \$20.00 per hour.

Member Comments:

Will he be a contractor or an employee?

Bob explained that he will be a contractor and will receive a 1099 at the end of the year.

Sandra motioned approval of Tony Rossman as a 1099 contractor; Suzy seconded and the motion carried unanimously.

- e. Community Paper Shredding – Shirley explained that her research found that it would cost approximately \$300 per hour, they require a minimum of 160 people to participate and for those reasons, feels it is not a good value for the community.
- f. Attorney –The following provided by Bob Burke:

Bob Burke: **Now we move on to the Attorney.**

We're considering changing attorney firms in order to get a firm that has wider coverage for items that our current firm does not offer.

We, as do all POAs need legal representation that advises us about past and developing Florida Legislation that has or will have adverse impact on our Owners finances via POA dues. Likewise, we need enlightened guidance on St

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Lucie County Ordinances and departmental actions impacting our wallets and guidance in working with like-minded POAs both in SLC and State-wide.

We need legal representation that sets us on a course to comply with FL Statutory requirements for our POA Web Site, meeting content, Director Behavior and POA allegations of Owner malfeasance.

We need legal representation that ensures Owner confidence in POA Board Election outcomes with a Secret Ballot, chain of custody Security and Electronic voting so our Snowbirds and those out of town on extended year-end travel to be with family & old friends. Many Owners tell of the annual Meeting & Election notices being sent to either their PS or up N home where they were not. This has multiple ways to ensure they get it

We need legal representation led by a deeply experienced SLC resident Attorney who specializes in POA representation, knows the SLC players in and surrounding County government and can advise actions that deliver maximum benefit to our Owners.

We need highly Ethical legal representation that acts in its fiduciary capacity to protect our Owners, Board and POA simultaneously.

We've had the current firm from the beginning and interviews with past presidents and board members described actions that yielded low performance outcomes for our Owners.

I've seen acts I consider as unethical committed by our current Attorney Firm including:

- Elizabeth Bonan attended and chaired our Jan 20, 2023 Annual Members Meeting at which we elected the next Board even though our Declarations allow only Owners to attend the meeting. I challenged her eligibility to attend and be a candidate to chair the meeting before it started and her reply was that she could be elected Chair if she received the most votes.
- Without Debate, She called for a vote on a Motion, asking for those in favor to say Aye and then declaring the Motion passed without asking for Nays or counting the Ayes.
- On March 15 I attended a POA Board Cert Seminar in Vero Beach presented by Elizabeth Bonan a member in our current legal counsel firm. She described Owners' email & phone number in the Roster listings as must be approved to be in vs the statute's wording as must be opted-out.
- At our Jan 2022 meeting, Jacob Ensor attended and when asked about the use of and reason for the combined Ballot and Proxy which denies secret ballots, he replied it was allowed as there is no standard form for them.
- During earlier years according to long-- time residents, supporting prior returns from secret to non-secret ballots.

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- In Sept 2022, the former Board sent me an election interference threat signed by Jacob Ensor claiming that I defamed the Board with a Facebook post that in which I said the Traffic Hawk fines couldn't be enforced. During a phone call, I informed Ensor that I said only truth, it was not defamation and that I was giving him an opportunity to withdraw the threat before I retained legal counsel so that the POA wouldn't eventually lose any court action it started and be charged with paying my legal bills as well as his billing for any frivolous lawsuit to the POA. Ensor's response was: "I'm going ahead with it anyway." At the time, the "traffic hawk policy" was not a rule or regulation, making it non-enforceable and the Board had published in 3 prior Board Meeting minutes that debate about the Policy was illegally discussed in prior committee meetings that were posted on the POA's Meeting Minutes web site and subsequently disappeared and replaced with revised minutes. The Rules & Regs were then changed at a later date with an effective date of Sept 15, 2022 the date my attorney emailed my reply to him.

As to the selection of a new attorney firm, I searched and reviewed the on-line presences of all the POA - Focused firms within 50 miles from here I could find.

Lots of small firms claim expertise in so many legal fields that it's impossible to be well versed enough to know the specific laws for any matter without hours of statute and court precedent research to know what steps to guide us to take. They generally price their services a few % below the large firms with multiple specialists in POA matters. So their selection can pay low hourly rates for loads more time.

I interviewed 5 attorney firms with significant on-line POA content who are within 50 miles and narrowed our pool of nearby firms to the 3 I found to be well versed in POA law, the behavior of our SLC government and surrounding players, had no client conflicts and have many nearby POA clients for the Board's consideration today:

Manoff & Stoloff, Fields & Bachove and Becker

Bob Burke: **Motion?**

Of the 3 Attorney Firms to choose: Becker is in my analysis the best of all

If chosen, our lead attorney would be Jane Cornett, An SLC native who grew up in Fort Pierce and lives nearby in Palm City. She has many clients in SLC & IRC and Martin counties. She knows the SLC Government and surrounding players including C&T and nearby contractors we might want to employ. She has been representing other POA clients with drainage issues and CDDs for some time now.

Becker covers all the advice, routine collections and Owner/tenant litigation matters we get now and much more. They answer a modest number of legal advice questions without charge and prepare our Annual Meeting Notices included in the modest \$250 / year retainer.

Becker partners with a POA web hosting outfit that offers to build our long overdue FL Statutes Compliant web site and host it at modest cost.

Becker offers a Secret "Becker Ballot" Annual Election system that is highly automated and enables secure electronic and paper ballot voting. Paper voting has signed outer envelopes and sealed inner envelopes. This ensures Owner confidence in POA Board Election outcomes with a Secret Ballot, chain of custody Security and Electronic voting so our Snowbirds and those out of town on extended year-end travel to be with family and old friends are able to vote. This IT based upgrade is a modest cost reduction.

Jane Cornett, who would be our Becker lead attorney has practiced in SLC for decades and understands SL County ordinances, the government & the surrounding players that supply services & goods to POAs. Becker understands common area defects and how to resolve them.

Becker has a legislative lobbying specialist who hosts a podcast that will aid us by enabling us to seek reform of Statutes that have adverse impacts on our POA dues or lobby for Florida Legislation that has or will advantage us by favorable impact on our POA dues.

Becker has staff that are well versed in St Lucie County Ordinances and departmental actions impacting our wallets and can help us in working with like-minded POAs both in SLC. An example is the 20+ year old practice favored by developers to place trees with destructive root systems in spaces way too small for the spread of their roots. This practice is obviously to our disadvantage and to the advantage of developers, their suppliers and any corrupt players to acquire fatter margins and positive cash flows by charging for expensive trees and buying cheap ones.

We need highly ethical legal representation that acts in its fiduciary capacity to protect our owners, Board and POA simultaneously. During the Becker interview, I asked Jane Cornett how Becker upholds its fiduciary responsibility to the POA's constituents, our owners, the POA and its Directors. The reply was that Becker upholds and balances the interests of all 3 constituent groups and would not advantage one constituent group over the other.

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Member Comments:

Pamela Hines asked if the Information on the law firms are included in the agenda packet tonight?

Bob noted that he did leave that out in error. But all board members were given the firm names and asked to interview the firms.

Fred DiSisto spoke in favor of changing law firms as it was something he wanted to do when he was on the board many years ago.

Karen Erickson asked if the law firms received an RFP? Did the current firm receive a call or RFP or notification? The current law firm has kept the association out of any kind of litigation, because the board has followed their advice.

Bob noted that an RFP was not done and the current firm did not receive a call.

Mike Luton questioned the costs and annual budget for the new attorney? Bob noted that their hourly rates are comparable.

He also questioned, though, if the reason the board wants to change law firms is so you can change the trees? Bob responded no.

Sandra noted that she did look at the list of recommended questions and asked some of her own. The fact that Ross, Earle, Bonan, Ensor & Carrigan have been the association's law firm for many, many years, which is a plus and out of all of those years, we've not had a lawsuit and in a state that used to be number one in that area, to not have a lawsuit, speaks volumes to the firm that is providing legal representation.

One of the questions Sandra noted she asked was how many litigation cases (not collections,), the response was fifteen in the last five years. Sandra went on to note that a lot of what Bob explained sounded personal.

Sandra motioned approval to vote on whether or not to change attorneys. Suzy seconded. Motion carried 3-2 with Al and Sandra against.

After discussions, Suzy motioned approval of Becker as the association's legal counsel; Bob seconded. The motion carried 3-2 with Sandra and Al against.

- g. **Rules and Regulations – Occupancy Restrictions (Discussion) – Sandra motioned to table the rules and regulations to the next meeting; all were in favor.**

The Landscape RFP, the secret ballot and the rules and regulations will be addressed at another meeting.

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XI. MEMBERSHIP COMMENTS – None.

XII. ADJOURNMENT – There being no further business, the meeting was adjourned at 9:35pm.

Respectfully submitted (with edits from Board of Directors),
Annmarie Coniglio, LCAM

Portofino Shores
Manager's Report – May 2023

Miscellaneous

- The website continues to be updated with current calendars and approved minutes.
- The audit of the 2022 financials is complete. Members wishing to receive a copy, please contact the clubhouse office.
- I am now working on integrating tenant information into the directory, which already contains owner information.
- Information is being sent to JR Frazer, who will be working on the updated reserve study.

Maintenance

- A new rain cover has been installed on the golf cart, along with new tires and the seats have been cleaned.
- Wetlands Management planted additional trees in areas throughout the preserve area.
- The crepe myrtles in the common areas have been trimmed.
- Inspections to determine maintenance deficiencies and routine follow-up is being done.

Respectfully submitted,
Annmarie Coniglio, LCAM

COMMITTEE REPORTS SUMMARY FOR BOARD MEETING OF MAY 2, 2023

Architectural Control Board: The ACB had 3 meetings since its last report. The ACB reviewed 17 modification applications. These applications included the following modifications: privacy fence: 2; landscaping: 3; rooftop solar for electricity: 1; painting: 4; roof tile replacement: 2; concrete patio area: 1; screen enclosure: 1; tree replacement: 1; and accordion shutters: 2

Owners are reminded that they must receive prior approval from the ACB for any project affecting the outside of a house or property through our application process. This includes, but not limited to, painting house or entry doors, door inserts, exterior lighting (including low-voltage), patio extensions, screen enclosures, wall hangings, pots, yard décor items, fences, surveillance & doorbell cameras, paver driveway or walkway modifications, changes to plant beds, removal or replacement of plants, hedges or trees, and satellite dish installations.

Regarding house painting:

All surfaces painted in Body color must remain Body color.

All surfaces painted in Trim color must remain Trim color.

Exception: Front entry door(s) - see the approved colors at office.

Note: Vegetation Removal Permits are required for all tree removals within St. Lucie County. The ACB cannot approve tree removals without a county permit. All necessary applications are available at: www.portofinoshores.net then click on Documents.

The ACB normally meets on the second & fourth Tuesdays of the month at 7:00 p.m. Summer and holiday months are less often due to fewer applications and travel. To be considered, an application must be received no later than the Friday before the next meeting. The next ACB meeting is scheduled for Tuesday, May 9, 2023 at 7pm.

Appeals Committee:

The Appeals Committee met on April 13, 2023 where six speed violation fines were upheld and eight parking violation fines were upheld. One unapproved tenant violation fine was waived.

Entertainment Committee:

Easter Egg Hunt was held April 8, 2023 with 46 children hunting for eggs, taking pictures with the Easter Bunny, delighting in face painting and enjoying their candy.

Island Night was held outside on the patio with 70 people having RSVP'd. It was a potluck dinner and music was provided by a new gentleman, Mello Vibes. The weather was perfect for a fun evening.

Neighborhood Watch Committee ("NWC"):

No report at this time.

Screening Committee:

Since the last meeting of the Board of Directors, there were 7 lease applications; 8 lease renewal applications and 1 purchase application processed.