

## Sea Winds Condominium Association, Inc.

Minutes of the Sea Winds Board meeting held at the Sea Winds Clubhouse on Saturday 2<sup>nd</sup> March 2019 at 10 AM.

### **Determination of a Quorum**

A quorum was announced by the presiding officer, Jane Hartman. All Board members were present (Jane Hartman, Mike Hughes, Liz Paterson, Carl del Rosario, Jeff Peet, Nigel Smith) except Peter Weir who participated by telephone.

### **Call to Order**

Jane Hartman, President of the Board, called the meeting to order 10 AM at the date and location noted above.

### **Approval of minutes from previous board meeting**

The minutes of the last Board meeting held on 2-6-19 was approved by the Board unanimously

### **President's Report**

Provided by Jane Hartman

Sea Winds has a new maintenance person, Jeremy, chosen by our manager Gary Thompson since the previous maintenance person, Nik, quit on the 16<sup>th</sup> of February of this year.

Results of the forthcoming election for the SW Board will be announced at the annual meeting scheduled for Saturday 6<sup>th</sup> April at 9 AM.

Carl del Rosario will not be running for the Board again this year. He may run again in the future. If only 6 run for the Board this year a 7<sup>th</sup> can be chosen. The Board wishes to remain with 7 elected members rather than reducing the number to 5.

### **Treasurer's Report**

Provided by Peter Weir, Treasurer

The operating surplus for January is due primarily to receipt of settlement on Unit 2 somewhat offset by the final legal charges for this effort.

The reserve accounts have continued to build and will be utilized for those items in the scope of our reserves.

Owner assessments are generally current.

The Audit for FY2017-2018 was completed on time and the Tax Returns to the State and IRS have been submitted.

Sea Winds Operating Account Balances as of December 31, 2018 statements:

Operating Account (Fidelity Bank): \$61,970.29

Reserve Account (Fidelity Bank): \$80,950.49

Reserve Investment Account (Fidelity Bank): \$262,892.52

The rental program's prior small deficit has turned into a surplus due to influx of rentals in January. This should continue for the next few months. Normal budgeted payments to the Association continued through this period.

The 2019-2020 Budget development is underway. Budget workshops were held last month and we are nearly completed with next year's budget. Budget workshop minutes will be posted. Once we have an insurance estimate there will be one more workshop that will be posted in advance.

## **Rental Report**

Provided by Liz Paterson

The Rental Committee met on Tuesday, 19 February to go over the updated Rental Owners' documents. These have a few changes to reflect today's demands. The most obvious change is to the commission amount. The Board had agreed for an increase of 3% in all rentals. We are still amongst the lowest commission on the beach. Most of the increase is to fund our commission to bookings on VRBO and TripAdvisor. We are currently only paying per booking, not per year. Paying per year would be a huge cost and it wouldn't be financially viable. There will be an increase in the payments made to the Association operating fund. This helps us keep our monthly association assessment fees as low as possible.

There has been some interest already through VRBO and TripAdvisor. At present it is mostly for winter rentals in 2020 but some enquiries for summer rentals are beginning to trickle in.

Our CAM has looked into an option for insurance rather than a security deposit but he isn't able to give concrete figures as yet or know which insurance company will offer the best service.

Two copies of the new rental owners' contract will be sent out to all on our programme with a sign-and-reply date of one copy by April 1st. This can be done electronically or by regular mail.

## **Rules and Regulation Report**

Provided by Carl del Rosario

### **1. Power to Impose Fines**

Section 718.303 of the Florida Statutes (The Condominium Act) provide legal guidance regarding condominium fining and suspension of rights to use common elements and facilities. These laws may be enforced even if such powers are not granted or described in the Association's governing documents.

### **2. Who may be fined**

Fines may be imposed against the owner of the unit, its occupant, licensee or invitee. Fines may be imposed for violations of the Association declaration, bylaws, or reasonable rules. A fine may not become a lien against a unit.

### **3. Maximum amount of fines**

The statutes require that all fines must be reasonable. It states that no fine may exceed \$100 per violation, but does allow fines to be imposed for each day of a continuing violation, so long as such fine does not exceed \$1000 per violation.

### **4. Functions and Procedures**

It is the Condo Association Board Of Directors (BOD) that first votes to impose the proposed fine. No fine may actually be imposed unless a special committee (Fining Committee) then hold a due process hearing. The special committee must agree that a fine proposed by the Association should be imposed. If the Fining Committee does not agree, the fine may not be imposed.

The first step in the process is that the BOD votes to impose a fine or suspend use rights based on a violation. The Association must then provide at least 14 days written notice by mail or hand delivery to the person sought to be fined of such fine/suspension. The Fining Committee must provide the person sought to be fined an opportunity to testify and present evidence in opposition to the fine and ensure that due process is provided. The written notice should cite the specific provision of the governing documents that is alleged to have been violated.

If the Fining Committee rejects the proposed fine/suspension it cannot be enforced. If the Fining Committee approves the proposed fine/suspension the fine is due 5 days after the committee meeting at which the fine was approved. The determination should be memorialized in writing in the committee meeting minutes or a report prepared by the committee and kept with the Association's official records.

## **5. Committee Composition**

The Fining Committee must be composed of at least 3 owners in good standing appointed by the BOD. Those owners may not be officers, directors or employees of the Association or the spouse, parent, child, brother or sister of an Association officer, director or employee.

## **6. Due Process**

In the statute the term “due process” is not thoroughly addressed and the rights of the alleged violator are not clearly established. However, in one arbitration case, the arbitrator found that the alleged violator’s due process rights were violated when they were not allowed to cross examine a witness or introduce their own witnesses or evidence at the Fining Committee hearing. The arbitrator stated that “although a formal hearing is not required, the Association must present credible evidence that demonstrates a pattern of activity that a reasonable person could determine that the.... {pertinent provisions of the governing documents} are being violated. Petitioner must be given an opportunity to question the Association’s evidence and present their own.”

## **7. Enforcement of Fines**

Condominiums fines may not be converted to a lien. The Association may suspend the use rights of a member if the member is more than 90 days delinquent in paying the fine until the fine is paid in full.

A condominium may suspend the voting rights of a unit owner for the non-payment of a fine due to the Association which is more than \$1000 and more than 90 days delinquent. The notice and hearing procedures for initially imposing the fine are not required for the suspension of voting rights.

A condominium may file legal actions to recover a fine (civil court). Remember: the Association will be required to prove to a judge that the underlying violation actually existed. There is no legal presumption that a violation existed just because a fine was imposed. In any action to recover a fine the prevailing party is entitled to reasonable attorney fees and costs from the non-prevailing party as determined by the courts.

## **8. Suspension of Rights**

A condominium association may suspend, for a reasonable period of time, the right of a unit owner, or a unit owner’s tenant, guest, or invitee, to use the common elements, common facilities, or any other association property for failure to comply with any provision of the declaration, bylaws, or reasonable rules of the association.

The right to suspend does not apply to limited common elements intended to be used only by that unit, common elements needed to access that unit, utility services provided to that unit, parking spaces or elevators.

The same procedural requirements for the imposition of fines as approved by the fining committee, including due process requirements, must be met in order to use this enforcement tool.

### **Building and Grounds Report**

Presented by Jeff Peet.

A new water heater has been installed for the spa by the pool and it is working well. The previous water heater was old and required a lot of maintenance.

More street lighting at Sea Winds has been recommended by the Board. Also, lighting along the path to the units and for the stairs to upper levels units at the south side will be explored. Various options will be examined for presentation at the next Board meeting.

### **New Business**

The Stonebridge company will be selected to reroof the Brigantine and Sloop buildings at Sea Winds at the cost of \$24,150 and \$23,115 respectively. The reroofing will be done in May or in the Fall.

### **Next Board Meeting**

The Board will meet again at the annual meeting which is scheduled for Saturday 6<sup>th</sup> April at 9 AM.

### **Adjournment**

The meeting was adjourned at 11:35 AM.

Submitted by:

Nigel Smith, Secretary