

## **July 2004 Extraordinary Minutes**

At 2:05 p.m. on July 17, 2004 in La Cruz de Huanacastle, Municipality of Bahía de Banderas, Nayarit, location of CONDOMINIUM LA PUNTILLA; the condominium owners and/or their representatives that appear on the attendance list that forms a part of this act, met, with the purpose of holding an Extraordinary Meeting of Condominium Owners of Condominium La Puntilla, on the first call to order, according to the Interior By Laws, having made said call to order under the terms of the Law and that which is set forth in the interior By Laws of the Condominium.

Continuing act, the President, Secretary and Scrutinizers of the meeting were designated, Mrs. Cherie Sibley acted as the President of the meeting and designated as Secretary of the meeting Ms. Lydia Dobyns and following that, Mrs. Dru Davies and Jerry Martinson were designated as the scrutinizers, and they performed their tasks by taking the attendance list for which representation of 83% of the voting interests of the Condominium were present, with units 8A, 4B and 9B not represented and unit 1B not represented nor eligible, the above results from the information contained on the attendance list and which shall accompany the act which contains the resolutions made in the meeting.

The scrutinizers communicated and certified the existence of a legal quorum according to the By Laws, indicating that according to the dispositions cited in the By Laws and in the law in effect, a legal quorum exists on the first call to order in order to hold the present meeting, they indicated this fact to the President of the meeting who declared that on the second call to order the General Meeting of Condominium Owners of Condominium La Puntilla was legally called to order on the first call to order.

A continuing act, and according to the Call to Order for the meeting, the President proposed that the meeting be subject to the following:

### **ORDER OF THE DAY**

1. Attendance list and accreditation of ownership rights of the homeowners or the exhibition and delivery of the letters of proxy of those representing the homeowners at the meeting.
2. Designation of the president, secretary and the scrutinizers and of the legal quorum.
3. The modification of the resolution adopted on April 19, 2003, in which a special assessment of \$262,268 pesos was approved for the construction of a sea wall and a palapa. It is acknowledged that from the amount of \$11,272 assessed to each condominium owner, the amount of \$4,500.00 has been collected and will be applied to the amount indicated in number 4 on this order of the day, when and if said point is approved. There will be no construction of a palapa.
4. The approval of a special assessment in order to make final repairs in front of the beach, including the installation of a sprinkler system, the placing of top soil and seeding of grass for a total cost of \$219,853.75 pesos. To this amount, the amount of \$4,500.00 from each condominium owner shall be applied, when and

if the point #3 on this order of the day is approved, leaving the amount of \$7,309.00 as the remainder of the special assessment that will be charged.

5. The ratification of actions taken by the Vigilance Committee regarding the construction of the boulders/sea wall, since said work was of an urgent nature.
6. Designation of a delegate to the Assembly to appear before the public official of his choice to formally register the agreements that may be taken.
7. Recording and in succession, approval of the minutes of the meeting which contains agreements taken in the points that are referred to in the Agenda.

### **DEBATE ON THE ORDER OF THE DAY**

**POINT ONE.** - *Attendance list and accreditation of ownership rights of the homeowners or the exhibition and delivery of the letters of proxy of those representing the homeowners at the meeting.*

In the debate regarding the first point of the Order of the Day, once each and every proxy letter issued by the Trust Institutions that hold the trust rights with respect to some of the private units were analyzed, the same which were issued in favor of their beneficiaries, which letters shall be attached to the present meeting minutes. At the same time since all those arriving to the meeting registered their names on the attendance list that was prepared at the calling to order of the meeting, the attendance of the condominium owners was ratified and as a continuing act the scrutinizers certify that based upon the registers of the condominium and especially the official register of the condominium owners registered with the administration of the condominium, in the present meeting there are 15 condominium owners present or represented, and 4 condominium owners absent, as a result that is a legal quorum of 83% of the interests of the Condominium represented, for which according to the Interior By Laws of the Condominium, a legal quorum existed to make and approve the resolutions in the present meeting making these resolutions obligatory for all of the condominium owners, either present or dissident according to the Interior By Laws of the Condominium, with the prior being adopted, the President had the first point debated with the unanimous approval of the condominium owners present.

**POINT TWO.** - *Designation of the president, secretary and the scrutinizers and of the legal quorum.*

By virtue of the fact that this point was verified according to the approval of 100% of the attendees with the right to vote at the beginning of the meeting, the President determined that this point had been discussed.

**POINT THREE.**- *The modification of the resolution adopted on April 19, 2003, in which a special assessment of \$262,268 pesos was approved for the construction of a sea wall and a palapa. It is acknowledged that from the amount of \$11,272 assessed to each condominium owner, the amount of \$4,500.00 has been collected and will be*

*applied to the amount indicated in number 4 on this order of the day, when and if said point is approved. There will be no construction of a palapa.*

Discussion opened on this point of the order of the day with Mr. Francisco Moreno requesting a history of what had occurred with regards to this matter. The following summary was presented; In **April 2003**, a special assessment was presented and approved which assessment was to cover the construction of a sea wall and a palapa in the common area. The assessment amount of \$11,272 per owner, was based on an inaccurate estimate for the work that was to be done. In **August, 2003**, the VC takes action at its meeting to modify the assessment downwards. After checking the legality of this action with Notary #2 of Bucerias, Nayarit and in order to save the Association money to do the sea wall at a lower cost, the estimate was modified, the construction of the palapa was cancelled, and a new amount of \$4,500 pesos was assessed to and paid by all of the condominium owners, with the exception of the owner of unit 1B. In **January of 2004**, at the annual meeting of the homeowners, all actions taken by the VC during the year 2003 were approved.

Lydia Dobyns expressed her doubts as to why there was even remaining discussion on this issue since it had already been approved by the VC and then ratified by the Association. Jerry Martinson recalled the removal of the capital projects line item from the budget during the vote passed in January and Doug Davies proposed tha the resolution should be to cancel the remaining balance on the assessment and replace it with the amount listed on point of order number #4 of the present act. Lydia Dobyns felt that the January action was sufficient and that no additional resolutions were necessary and that capital projects had been discussed. Jerry Martinson quipped, "When your horse dies, dismount." and that again, the January action confirms all actions. Francisco Moreno asked if it were in the best interests to replace the sea wall work with boulders and Jerry Martinson said that the homeowners agreed since it would be less costly and that it was urgent to avoid further erosion and to provide storm protection. Jerry Martinson made a motion and Lydia Dobyns seconded the motion to move to item #4 on the order to the day and not to vote on the present item.

By unanimous vote the condominium owners adopted the following:

### **RESOLUTION**

**SOLE.-** That no vote will be taken on the present item of the order of the day and discussion will move to item number #4 of the same.

**POINT FOUR.** - *The approval of a special assessment in order to make final repairs in front of the beach, including the installation of a sprinkler system, the placing of top soil and seeding of grass for a total cost of \$219,853.75 pesos. To this amount, the amount of \$4,500.00 from each condominium owner shall be applied, when and if the point #3 on this order of the day is approved, leaving the amount of \$7,309.00 as the remainder of the special assessment that will be charged.*

Opening discussion on this point, Jerry Martinson suggested that all costs be separated out, stating that the cost of the burial of the existing boulders was \$58,353.75 and Lydia Dobyns made a motion to approve the replenishing of the reserve fund which amount was used to complete the sea wall repairs through the burial of boulders with a per

owner cost of \$3,071 pesos. This motion was seconded by Jerry Martinson and amended, to say “if the motion does not pass, said amount will be built into the 2005 budget. Lydia Dobyns, agreed with this amendment and it was put to a vote. Mr. Doug Davies objected to a motion for an item that was not on the agenda, and after an opinion from legal counsel to the contrary that said that final repairs is the same as the burial of boulders, (being the item of disagreement) the vote was taken. With 23.77% voting in favor, 44.39% voting against, and 13.25% abstaining, no resolution was approved.

**Voting in Favor:** A1, A2, A5, B2, A3  
**Voting Against:** A4, A6, A10, A7, B3, B5, B7, B8  
**Abstaining:** A9, B6

Following this Cherie Sibley opened discussion about the installation of a sprinkler system and the seeding of the top soil in front of the beach with grass. Lydia Dobyns made a motion to approve the amount of \$82,500.00 pesos to cover the installation of a sprinkler system and to seed grass on the top soil in the beach front area. There was discussion regarding hoses and other watering options. Judy Dell’Aira seconded Lydia Dobyns motion but before taking a vote, Francisco Moreno suggested that other options be considered. Lydia Dobyns amended her motion to read, that an amount not to exceed \$82,500 pesos be approved and that cheaper alternatives be considered, for the installation of a sprinkler system and to seed grass on the top soil in the beach front area with the VC having final approval to the final project. Once again, Judy Dell’Aira seconded Ms. Dobyns motion and a vote was taken. With 29.10% voting in favor, 48.22% voting against, and 4.09% abstaining, no resolution was approved.

**Voting in Favor:** A1, A3, A5, A6, A9, A10  
**Voting Against:** A2, A4, A7, B3, B5, B6, B7, B8  
**Abstaining:** B2

Ms. Dobyns made another motion to have the Homeowners Association authorize the voluntary funding, management and execution of the installation of the sprinkler system and top soil and grass seed project, to be implemented by the administrator and supervised by a homeowner designated by those homeowners that are funding said project, when and if approved by the federal authorities, and once said project is installed, the maintenance of the same would be covered by the association. Lydia Dobyns then acknowledged that this type of project sets a bad precedent for dividing the interests of the B street and the A street owners. Francisco Moreno and Maria O’Connor discussed issues regarding the federal maritime zone and Lydia Dobyns made an amendment to her motion. To include “all necessary authorizations and permits”. Mr. John Whitten seconded Ms. Dobyns motion and With 62.20% voting in favor, 4.95% voting against, and 14.26% abstaining, the following was approved:

## **RESOLUTION**

**SOLE.-** That the Homeowners Association authorize the voluntary private funding and execution of the installation of the a sprinkler system, topsoil and seeding of grass I the area in front of the beach, which project will be implemented by the administration and supervised by the homeowners designated from those contributing to the project. This project will require all necessary authorization and permits and once complete, the

maintenance of said project will become the responsibility of the Homeowners Association.

**Voting in Favor:** A10, B6, A6, B8, B2, A1, A2, A5, B7, B5, A9

**Voting Against:** A3

**Abstaining:** A7, B3, A4

**POINT FIVE.** – *The ratification of actions taken by the Vigilance Committee regarding the construction of the boulders/sea wall, since said work was of an urgent nature.*

When discussion opened on the fifth point of order, Francisco Moreno asked if the nature of the work was in fact “urgent”. Cherie Sibley answered, that it was urgent and that erosion was not the only issue but also the fact that hurricane season was upon us and that the work was necessary. No motions were made with regards to this item.

**POINT SIX.** – *Designation of a delegate to the Assembly to appear before the public official of his choice to formally register the agreements that may be taken.*

Once the prior point was debated, the President inquired if there was no further business and proceeded with point five on the Order of the day and proposed to designate Cherie Sibley as delegate from the meeting to go before the public notary to formalize the resolutions and minutes adopted in the meeting.

The condominium owners, voting unanimously, approved the following:

### **RESOLUTION**

**SOLE.** That Cherie Sibley be designated as the delegate from the meeting to go before the public notary to formalize the resolutions and minutes adopted in the meeting and to have the same registered in the Public Commercial and Property Registry.

**POINT SEVEN.** - *Recording and in succession approval of the act that contains the agreements taken in the points that are referred to in the Agenda.*

In conclusion, the President suspended the meeting for the time necessary to redact the minutes of the resolutions taken at the meeting and in the same manner the President confirmed the correctness of the minutes taken by the Secretary of the meeting regarding the resolutions adopted and the number of votes.

Once this was done, the President declared that the meeting was over and specified the number of condominium owners present that would represent a unanimous vote. The meeting was adjourned at 3:14 pm and that said minutes were ready in English and Spanish to those attending.

Condominium Number	Name of Representative
A1	Lydia Dobyms
A2	Lydia Dobyms
A3	Jerry Martinson
A4	Jerry Martinson
A5	Lydia Dobyms
A6	Douglas Davies
A7	Michelle Willner de Cruz
A8	<b>NOT REPRESENTED</b>
A9	Jerry Martinson
A10	Judy Rae Dell' Aira
B1	<b>NOT ELIGIBLE</b>
B2	Francisco Moreno
B3	Michelle Willner de Cruz
B4	<b>NOT REPRESENTED</b>
B5	Drusilla Davies
B6	John Whitten
B7	Drusilla Davies
B8	Douglas Davies
B9	<b>NOT REPRESENTED</b>