



Board Meeting Minutes

Saturday, December 14, 2019

President Margie Cyr at the Bethany-Fenwick Area Chamber of Commerce called the meeting to order at 9:30 am.

Board Members Present:

Margie Cyr, Steve Larsen, Jeff Sella, Marty Shecter, Ellen Throop, and Tris Kruger.

Others Present:

Ruby Halligan (CAS), Janie & Tim Switzer (1 Dune), and Greg Pichler (20 Dune).

Review of November Board Meeting Minutes:

The minutes were reviewed, and several edits were suggested. These edits were accepted, and Jeff motioned, and Marty seconded that the minutes, as edited, be approved. All in favor.

Property Manager's Report: Ruby Halligan (CAS)

- The damaged fence is being repaired by Alex, Dave & Joe. They have spent over \$800 in materials leaving \$300 to finish the repairs. Jeff questioned which fence was being referred to. The fence along Route 1 was damaged earlier this year and then repaired. The guard rail next to Dollar General was damaged and Joe, Alex, and Dave have been repairing the fence since the contractor originally contacted for this job has not done the work. Jeff requested that Ruby verify the \$800 figure.
- Final notices sent to property owners who are past due on their assessment. Ruby requested that the Board make a decision on the next step in the collection process.
- Atlantic Plumbing has winterized the guard shack
- Contacted Ruppert Landscaping and Brightview Landscaping to provide bids for next year. Will also contact McCabe & Sons Landscaping to provide a bid for next year.
- Contacted Republic for bids for trash collection for next year.
- Will be working with Steve Larsen on the budget for the next fiscal year.
- Bonus checks for Community Patrol have been determined and will be in the next paycheck.
- Jeff and Steve had questions related to the financial statement presentation. The accounting for the reserves appears to be incorrect and distorts the financial

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presentation. Jeff referred to the compilation prepared by Book & Associates as a guide for presentation. Steve seconded this request.

- Ruby has been in contact with Artesian concerning their letter requesting information on the backflow valve for 30A Dune and Beach Blum. Ruby stated that she was informed that this was a new State requirement and she is waiting for more information.
- Colin sent a note thanking the Board and Community for allowing him to work for the past 25 years and thanking the Community for the recognition and bonus.
- Margie requested the reports from Ruby's community visits. Ruby indicated that she has all of the information, including pictures, and will send to Margie. Margie requested more timely reporting and Margie will provide Ruby with a form to use for the drive arounds.
- Ruby was asked about the snow removal policy. Her statement of the MBA policy was incorrect. She was reminded that the only person that could authorize snow removal was the President. CAS is not to accept snow removal instruction from anyone else. Jeff offered that he considered the total forecasted prediction for snow and the forecasted temperatures for the week after the snowfall.

President's Report: Margie Cyr

- The Board has previously approved retaining an outside firm to review all large construction permits. Margie has contacted Matt Dodier at M. R. Designs to determine if his firm had an interest in providing this service to MBA. She has sent him the covenants and Building Rules. Margie has scheduled a follow-up conversation with Matt for Monday, December 16th.

Treasurer's Report: Steve Larsen

- Community Patrol was under budget. The payroll for community facilities was over budget. A discussion ensued about the possible causes.
 - There are overtime hours. Some facility employees are also on the Community Patrol. Overtime is calculated at 150% of regular pay. The pay rate for Facilities and Community Patrol are different. Ruby did not know which base rate is being used for overtime but will provide an answer by the next Board meeting. Ruby will also provide a breakdown of the overtime hours and when they were incurred.
 - Watering of plants. There is not budgeted payroll figure for landscape watering but the Beautification Committee needs plants to be irrigated to survive.
 - Community needs and demands. Joe and Dave are available and handle many needs as they arise and at a significantly lower cost than hiring outside vendors. They are also more-timely. If they incur overtime hours because of the overlap with Community Patrol, the Board needs to weigh this with the

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offset of postponing some community work.

- Some time was expended on repairing the fence and guard rail. In one case the mother of the driver reimbursed MBA and in the other case the insurance company reimbursed MBA. These two reimbursements cover some of the extra payroll.
- Are all hours properly allocated? Ruby will provide a breakdown of all hours worked and how they were coded on the timesheets submitted by Dave & Joe.
- Steve also noted that the total budget for Facilities appeared to be in line, it is simply the payroll that appears to be over budget.
- Beach Activities is over budget. The payroll is over budget.
 - Colin's bonus was included with the beach patrol salaries. The Board has agreed that this recognition bonus would come from the miscellaneous fund and not out of the budget for Beach activities. Ruby needs to correct the accounting.
- We do not have a snow removal contract. Contracts that were presented were unacceptable to the Board. Further outreach to Emerald has been unsuccessful. The Board was reminded that Emerald has responded in the past without a contract. Billy Bowden was also discussed as a possible backup since he is in the community during snow storms.
- With the increasing width of our dunes we need to provide an extension for the existing Mobi Mat. There was also a discussion about obtaining a second mat. After discussion, it was agreed that we would order a mat to extend the one Mobi Mat but that we would not order a second Mobi Mat. Ellen presented a motion to reflect this decision, Tris seconded. Five were in favor and Marty abstained.

Budget:

Steve indicated that the committee has met and considered the following issues:

- The cost for trash and recycling was held constant this fiscal year. The proposed higher costs were offset by the elimination of the Saturday pickup and a reduced pickup schedule. Steve is waiting for pricing information from Ruby.
- The cost for insurance is going up. Ruby estimates 10%.
- Salary Concerns. Will we need to raise our pay to be competitive with the alternatives?
- The budget for increasing reserves needs to be increased to over our reserves closer to full funding.
- The Board has agreed not to renew our annual dumpster collection for bulk household waste. Ruby will obtain a quote for a bulk spring curbside pickup.

The committee is also working on further enhancements in creating a more formalized budget structure.

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Steve was asked by a community member if construction deposits were deposited into interest bearing accounts. Ruby answer that the deposits were in non-interest bearing accounts.

Committee Reports:

The written committee reports were reviewed. Steve asked about more details concerning the work at 17 Bridge. The scope of this permit was reviewed.

Tris motioned and Jeff seconded that they be accepted and approved. All in favor.

A discussion then ensued about the process for accepting committee reports and what should be posted to the website. It was agreed that the Committee reports should be posted to the website after approval at the Board meeting provided that there is no information that would contain attorney-client privileged information or fall within executive session topics.

Old Business:

Street Lights are out on Dune Road. Ruby will contact Delmarva Power. Ruby has pole numbers.

Gahagan & Bryant (GBA) Contract for Beach Permits. They approved our proposed changes. Motion made by Tris and seconded by Ellen to have Steve sign the contract. All voted in favor. With the contract now approved, future coordination for this project will be coordinated between Alex and Ruby and GBA.

Committee Organizational Resolutions. Still waiting on Beach and Budget Committees to submit description content to Margie.

18 Bayberry. The property owner has accepted the contract presented by MBA and this work should be completed shortly, weather permitting

New Business:

Delaware Training Tax:

Ruby received a notice of a past due amount. It was mailed to RPM. This generated a discussion based upon the following points:

- It appears that reports have not been filed since 2018. Why? CAS is responsible for all payroll reporting (federal & State)
- The delinquency notice states that it is the third & final notice. Why was CAS not aware before now? The notice was mailed to RPM. Why haven't the tax authorities been advised of the new address for MBA?
- The amount owed is \$168. What portion of this is interest and penalties?
- We agreed for CAS to retain ADP so that we would not encounter payroll related tax issues. What will CAS do to assure us that this would not happen again.

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- Why was the notice sent to a non-Board member?
- Ruby need to obtain a transcript from Delaware. Jeff will also attempt to obtain a transcript.

The rule Adoption policy has been adopted. The 2020 proposed construction rules to be adopted along with all other existing rules will be submitted to the Community prior to the May Community meeting. Construction rules will be voted on at the May Board meeting.

Access to the Executive Session Minutes:

One community member has requested copies of the Executive Session minutes for the Executive Sessions where his property was discussed. Margie had sought advice from Mary Schrider Fox concerning this request. Mary advised pursuant to DUCOIA that the minutes of Executive Sessions relating to a certain Owner/Property, even if requested by that same owner are not subject to review by that Owner.

Rental Fee/permit:

There was a discussion concerning the first step of determining or proving an economic burden or direct cost associated with renters. The Board disagreed as to what must be done to prove the economic burden. The discussion points were:

- Does the Board retain an outside firm to conduct a cost study?
- Does the Board support the costs of conducting this cost study?
- Do we need a cost study or just a determination of an economic burden?
- Several Board members felt that this would provide an additional revenue source for the Community to fund reserves.
- Several Board members felt there is no legal and factual basis to the rental fee.
- Several Board members highlighted the rental fees or taxes charged by some of the surrounding communities. It was noted that MBA is not a municipality so it does not have the authority to levy a tax. Some of the surrounding HOA's also charge a rental fee but in at least one instance, the HOA handles check in and departure.
- It was noted that this concept was discussed at the Listening sessions and the passions of the community ran deep on both sides of this issue.
- It was also noted that the Community survey was evenly split with about a third of the community having no opinion or wanting additional information.
- One Board member indicated support for a nominal fee for rental properties (200, 250, 500).
- How would the Board enforce any rental fee?
- Process for adopting a rental fee Board approach:

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- The Board could vote to approve a covenant change for submission to the Community.
- The Board would need to retain the attorney for MBA to draft the proposed covenant.
- The Community would need to approve the Covenant with a 60% approval.

OR

- Members of the Community could draft a petition and gather the requisite number of signatures. The petition would need to state the economic impact from renters and the justification for a rental fee. Along with the petition, the Community would need to provide a proposed covenant change
- The Board would need to have the corporate attorney review the wording of the proposed covenant and determine if it is legally proper.
- The Community would need to approve the covenant change with a 60% approval.

One community member also stated that the Board needs a cost study before we can submit a proposed covenant change to the community for a vote.

This issue was tabled until the January Board meeting for further discussion.

Executive Session:

Steve moved and Marty seconded to go into Executive Session at 12:20 pm to discuss:

- Bennett Lawsuit
- CAS Contract
- Past due assessments

The Board came out of Executive Session at 12:25 pm with the following results:

- Bennett Lawsuit – no update. Still awaiting judicial review.
- CAS Contract – Ellen will work with CAS to finalize the language of the contract as to the terms and termination provision. Margie was authorized to sign the agreement.
- Collection efforts will be initiated on past due assessments. Ellen will address one member's account directly.

Adjournment:

Tris motioned to adjourn. Jeff seconded.

The meeting adjourned at 12:35 PM.

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Next Board Meeting:

January 11, 2020 at 9:30 am at the Bethany-Fenwick Area Chamber of Commerce.

Respectfully Submitted,

Tris Kruger

Jeff Sella