

Orchidland Community Association, Inc.
Approved Minutes of the Special Board Meeting
January 29, 2013

Call to Order: The meeting was called to order at 5:33 p.m. by Wayne Carey.

Members Present: Wayne Carey, acting President; Ralph Boyea, Secretary; Derek Shimizu, Treasurer; Dennis McCartin, Road Chair; Marti Morishige, and D'Artagnan Josephson, interim Director.

Guests: Roger Hawney, Wes Owens, Rich Ellis and Michael Genaro.

Interim Director: Ralph moved to reappoint D'Artagnan as interim Director, since he has missed more than two meetings. He withdrew the motion when Wayne explained that *Roberts Rules of Order* allow appointment of interim Directors only during a regular Board meeting. D'Artagnan was reappointed at the beginning of this fiscal year.

Ralph Boyea moved that the Board acknowledge that D'Artagnan Josephson's absences were excused. The motion passed unanimously.

Website: Wes Owens said that our website is back up after the server computer crashed. Help desk is now working. He asked who needs to receive emails regarding fees and billing, general questions and comments, road problems, and change of address. Lisa Johnson should receive billing and address change tickets.

The President gets questions and comments, and the Road Chair gets road issues. Ralph said the Secretary also posts phone calls onto the help desk ticket system.

Wes requested if a particular item does not apply to the director who received it, or applies to more than one director, that the other person be included on the email.

Rich said that the Board mailing list is back up and running, also. He has been posting missing documents.

Officer's Reports

President: Wayne reserved the HPP Activity Center for 8 to 1 on April 20 for the general membership meeting, since April 27 was not available. A \$25 check is needed to hold the reservation. Roger will supervise use of the sound system.

Marti Morishige moved to approve a deposit check and payment to rent the Hawaiian Paradise Park Activity Center for April 20. The motion passed unanimously.

Wayne asked to entertain motions to elect a new president. Since no one volunteered, Ralph asked to table the issue. Wayne tabled the discussion until the end of the meeting.

Secretary: Ralph had nothing to add to the report he gave at the regular meeting.

Treasurer: Derek reported no changes since the regular meeting.

Road Report: Dennis said he has been unable to locate a copy of the current Road Manager's contract, since it was on his old computer hard drive, which crashed.

Derek said he found contracts for Karen, Lisa and Kirstie in the old Treasurer's files, but not a contract for Adrian.

Dennis said perhaps Jerry Gardner has one in his files.

Dennis said that Big Isle Road Works was temporarily operating under someone else's license, but he does not know if that is still current.

Adrian has another contractor willing to take him under his license, which will require a renewal of his LLC. Adrian has copies of his insurance policy and state tax number, but to apply for a Hawaii business license he must work under someone else, like a journeyman. Therefore, we will need a new Road Manager's contract, which names that contractor. Until then, all road work is suspended.

Roger said it is his understanding that we have three options:

- 1) we can hire a licensed contractor to maintain our roads,
- 2) we can hire employees through Altres, as done in the past, to do regular road maintenance in-house, or
- 3) we can make all of our contractors employees, so that the expense becomes somewhat more cost-effective.

Marti asked why the Association quit hiring through Altres. Roger said they quit supplying road workers. Derek said we can send people to them for us to hire; they may even give us a price break.

Wayne said that since everyone is satisfied with the performance of the Dalton family, employing them as employees is an option, but would require a review of our liability insurance to ensure that they would be covered. He added that they may not want to work as employees. As employees, they could rent their equipment to us for a fee comparable to Bacon Universal.

Dennis said that having employees would require Lisa to do payroll taxes, withholding, etc., unless we could hire them through Altres.

Wayne appointed a Road Contract/Employee Committee to explore options. Derek offered to chair the committee, and Wayne, Dennis and Ralph volunteered to serve on it.

Old Business

Lick 'N Stick: Ralph said that the newsletter articles deadline is February 15, final copy to the printer on March 1 and Lick 'N Stick on March 16, probably at the Aasve's. Articles include proposed budget, election of directors, road chair report, president's report, and any proposals for MRMA's for July 1, 2015. The current MRMA will continue for next fiscal year.

Collections Policy: Ralph said we should review the policy and procedure on making policy, and whether the Collections Policy complies with it.

Derek Shimizu moved to review the Adoption of Policies, Procedures, Rules and Regulations in regards to the Collections Policy. The motion passed unanimously.

Ralph said it applies primarily to new policies, and the Collections Policy is not a new policy. When it was first written two years ago, the adoption of policies and procedures was followed, but implementation of the policy raised concerns of a Bylaws violation in allowing lot owners to work off fees. A second issue arose concerning hardship relief. Wayne argued that every policy and procedure, even rewrites, should be scrutinized against the adoption of policies and procedures document, and especially this Collections Policy, which introduces a dramatic change by including paving assessments as mandatory and enforceable by liens. He said this policy violates an agreement made at the special Board meeting in February not to force inclusion of complete historical documentation and court records regarding how the 1992 summary judgment was

obtained into the record, if we would stop pushing for paving as part of a mandatory collections policy.

Ralph said he understood that the agreement was between himself and Wayne only. He agreed to stop pursuing mandatory paving collections if Wayne would stop pursuing the initial court decision concerning mandatory road fees. "That didn't bind any other Directors... The other Directors moved forward on including paving in the Collections Policy."

D'Artagnan said everyone has a different version of what is the right amount of paving. He suggested asking the membership, and whatever the majority wants, the Board will act upon. "Maybe we could find some peace that way."

Wayne said it's a nice idea, but after the 1992 judgment, the Board established a set of Bylaws which excluded everyone who did not want road improvement and maintenance from voting. "What's missing is an '87 lawsuit, the exact same lawsuit, when the Association turned out and we had 80 people vote to terminate this lawsuit against ourselves, and 15 voted for it. And then 3 months later, one of our Board members was back with the attorney, backdooring us, and in a special meeting with no quorum and 15 people present, they passed the resolution and changed the Bylaws, that excluded the majority of people in Orchidland from voting. And therein lays the crux of neighbor against neighbor and the different views of history." He added that he finds direct conflicts between Hawaii statutes 414D governing unplanned community associations and our Bylaws and letters of incorporation, which have not been addressed. He said these must be rectified before we pass a Collections Policy.

Derek said, "I respectfully ask for you to amend your statement. I think we beat 414D to death, and just don't agree on it." He asked first to approve the policy, and then take it to an attorney for review before implementation.

Wayne asked for a motion to follow adoption of policies and procedures.

Ralph and Dennis objected that this Collections Policy is not a new policy. Ralph explained that if it is a new policy, it must be posted for comments from the membership before a final draft is written, to be voted on by the Board.

Wes said that because this policy deviates from the membership mandate [*of Nov. 19, 2011*] directing the Board to create a Collections Policy based on MRMA's only, he feels it has to go back to the membership, as well as follow the policies and procedures for adopting a new policy.

Roger said the former Collections Policy was adopted and then rescinded. "Rescinded means take back and start over." He said any change creates a new policy, and should follow the approved policy adoption process.

Dennis said they already have been doing this at the committee meetings.

Ralph said the Collections Policy adopted on May 25, 2010, was for collection of "unpaid assessments, pursuant to Hawaii Revised Statutes." He added, "Anything passed by a membership vote is an assessment.... We've actually narrowed it down to MRMA's and paving." He suggested that the Board follow the policy and procedures on adopting policy and procedures. "If we don't, people would perhaps argue the policy is invalid."

Derek said we should present it back to the membership, since if it had included paving, they might have voted against it.

Dennis said we cannot find the results of the vote from April, 2000, when the first paving increment was approved by the membership.

Ralph said previous Boards billed paving as an assessment, and collected. “If we change that, we’re not being fair to all those people who paid it.” He added that people may ask for their money back.

Derek moved to accept the current Collections Policy as a revision of the rescinded 2010 Collections Policy. After further discussion, he withdrew the motion. He said, “I did bring it [the policy for adoption of policies] up at one of the meetings, but I didn’t push hard enough.”

Wayne said that he was bringing up 414D at the time, and the decision was to write the policy, and then to go back and compare it against the two documents. He added that this was never done.

Ralph Boyea moved to follow the procedure for Adoption of Policies, Procedures, Rules and Regulations on the Collections Policy. The motion passed unanimously.

Ralph Boyea moved that the Collections Policy be approved by the Board of Directors and posted as the first draft, according to Section 3 of the adoptions policy. The motion died for lack of a second.

Derek said the committee did not discuss the policy line by line. He moved that the requirements set forth in the Adoption of Policies and Procedures, Rules and Regulations have been met in committee regarding the Collections Policy. When Wayne said he appears to have contradicted himself, Derek withdrew the motion.

Ralph said the Committee has discussed and complied with the policy up to item 3.

Wayne said, as a committee member, he completely disagrees.

Dennis resigned, saying “We’re not a bureaucracy or government agency. Why is everybody trying to put us into a cubbyhole we don’t even fit into?”

Adjournment: The meeting was adjourned at 7:25 p.m. for lack of a quorum.

Submitted by:

Kirstie Goin, Recording Secretary

Ralph Boyea, Corporate Secretary

Motions Log 1-29-13

Ralph Boyea moved that the Board acknowledge that D'Artagnan Josephson's absences were excused. The motion passed unanimously.

Marti Morishige moved to approve a deposit check and payment to rent the Hawaiian Paradise Park Activity Center for April 20. The motion passed unanimously.

Derek Shimizu moved to review the Adoption of Policies, Procedures, Rules and Regulations in regards to the Collections Policy. The motion passed unanimously.

Ralph Boyea moved to follow the Adoption of Policies, Procedures, Rules and Regulations on the Collections Policy. The motion passed unanimously.