

# Ventana Lakes Property Owners Association

## Board of Directors Regularly Scheduled Meeting Wednesday, May 10, 2008 Minutes

**Called to Order:** by President Sue Alandar at 9:30 a.m.

### Pledge of Allegiance

**Meeting Location:** Ventana Lakes Yacht Club  
20015 North 108<sup>th</sup> Avenue

**Board Members Present:** Sue Alandar, Tony Fiore, Moe Frenette, Richard (Dick) Matsuishi, Joe McCord, and Lori Norris (Darrell Smith absent)

**Property Manager present:** Jack Donovan

### APPROVAL OF MINUTES

McCord moved, Frenette seconded, APPROVAL OF OPEN MEETING MINUTES DATED APRIL 16, 2008, SPECIAL BOARD MEETING MINUTES DATED APRIL 21<sup>ST</sup> AND 23<sup>RD</sup>, 2008 AND EXECUTIVE SESSION MEETING APRIL 28, 2008.

Board Member Fiore, correction to Open Meeting dated April 16, 2008. On page #7, the sentence regarding the Gardens Residents pay an additional assessment of \$270 dollars since 1993, needs to be changed to; the Gardens Residents pay an additional assessment since 1993.

Frenette moved, McCord seconded, APPROVAL OF OPEN MEETING MINUTES DATED APRIL 16, 2008 WITH CORRECTION TO PAGE #7, APPROVE SPECIAL BOARD MEETING MINUTES DATED APRIL 21<sup>ST</sup> AND 23<sup>RD</sup>, 2008 AND EXECUTIVE SESSION MEETING APRIL 28, 2008.

**Motion Passed** (6-Yes, Smith absent)

### PRESIDENT'S REPORT (Sue Alandar)

You will notice that this is a timed agenda and we are going to try to stay on schedule. While I've tried my best to make sure everyone gets the opportunity to speak, I've also heard a lot of concerns about these meetings turning into marathons. Vice President Darrell Smith sends his apologies for not being able to attend today's meeting. We have a lot of important business today, and I will turn over the rest of my report to Board Member Joe McCord for an important announcement.

Board Member McCord, a week ago the Peoria City Counsel in their Budget Session, agreed **in principle** to add \$1 million dollars to the Omnibus bond issue to build a new road which will roughly run from Rose Garden and 112<sup>th</sup> north to the State Route 303. Once this road is completed, there is no more reason for the construction trucks to be on Beardsley Road. It's in principle at this time because the Counsel can not vote on items in their Budget Session. They will be voting on it at their next Counsel Meeting on **June 3, 2008 at 7:00 pm** located at the Peoria City Hall. Counsel Member Cathy Carlyle led the discussion and supports Ventana Lakes

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in their efforts to remove construction trucks off of Beardsley Road. There are 186 seats in the City Counsel Chambers and if we could fill all or a majority of those seats with Ventana Lakes residents it would show how important this issue is to our health, noise and pollution concerns. If enough residents sign up at the Management Office to go to the Counsel Meeting, a bus will be provided; otherwise car pooling will be encouraged. Everyone will meet at the **Yacht Club on June 3<sup>rd</sup> at 6:00 pm** for a quick briefing on how the Counsel Meeting will proceed and when the show of support will be needed from Ventana Lakes residents. If the Counsel approves the proposal, then the proposal is placed on the Omnibus bond issue (24 different issues) and is voted on by all Peoria residents. This is were our representation at the June 3<sup>rd</sup> meeting is so important, because if we can show how important it is, then our project is placed higher up on the list to be started. I'd like to recognize VLPOA resident Deena Cigoy and her committee who have worked on this issue for seven years, they have laid the ground work to get us this far and deserve recognition for a job well done.

## **TREASURER'S REPORT** (Moe Frenette)

The financial statements will be posted on the website as soon as they are available. The Financial statements for 3/31/08 were corrected to reflect correct Reserve expenses and correct Master and Garden legal fees. The only remaining scheduled expenses toward Reserves are the mold remediation expenses of \$32,793 and painting of management office for \$3,825.

An AM Trust CD in the amount of \$45,000 is due on 5/23/08 and another CD from Sky Bank in the amount of \$50,000 with First Federal Savings Bank is due on 5/27/08. Treasurer Frenette recommends moving the \$50,000 CD to a Money Market Account to cover future Reserve expenses and reinvest the other \$45,000 CD. Looking ahead there are 2 CD's in the amounts of \$82,000 and \$79,200 due in August for renewal.

In the past months, an accumulated surplus from prior years in the amount of \$77,476 was identified in the Equity section as belonging to the Gardens. Colby Management always computed interest on that balance and increased the Gardens Reserve by the same interest amount. Late April or early May this amount was transferred to a Gardens Reserve investment account. The Master Association has no need to make up for this transfer because these funds always belonged to the Gardens.

It was recently noted that there was an accumulation of funds that belongs to the Master POA in the form of a Advanta CD in the amount of \$100,312 and \$94,683 (\$172,129 -\$77,476) in the Compass Operating Account as of 12/31/07. These balances became the 2008 beginning operating cash balances.

The Master POA has spent more money than income received for the first 3 months of 2008 in the amount of \$25,856. The Master POA did not borrow any funds to pay for these extra expenses because of the beginning balances of our cash operating accounts. Current spending trends indicate that we may be overspending in future months.

The Master Reserve budgeted contributions for 2008 are \$60,000 and Reserve interest of \$30,000 for a total of \$90,000. The Reserve Study recommends Reserve contribution for 2008 be

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\$14,000 per month for a total \$168,000. Our Reserve contribution as budgeted is short by \$78,000.

Some capital expenditures are being made from the Master Reserves. \$36,618 has already been expended and addition expenses include the repaving in excess of \$63,000, kitchen remodeling, shores irrigation work, and other unknown projects. If the Gardens resolution is passed, an additional \$40,000 reduction will occur to the Master Reserves. Treasurer Frenette estimates that by year end the Master Reserves will be funded at 60-65%.

The Gardens is already on tract to realize a surplus by year end. If the Gardens resolution were to pass the Gardens surplus will increase even more and they will receive an additional \$40,000 reserve contribution. I estimate that by year end their reserves will be 100% funded.

The new Finance Committee has been established and is comprised of; Chet Homan chairperson, Chuck Schumm, Moe Frenette, John Lugo and Darrell Smith.

McCord moved, Matsuishi seconded, TO ACCEPT TREASURER REPORT DATED MAY 10, 2008.

**Motion Passed** (5-Yes, Smith absent)

Board Member McCord, how come we are over spending? Well I could let Moe answer, but I think I know why, we've let a lot of things go for a long time in Ventana Lakes. Like painting is over due by a number of years, letting a simple thing as painting go which protects what's underneath, now causes a greater expense with repairs. Reserves are pulled to make sure things are addressed and look nice, if the whole Community looks good, then every home in it looks good and values are maintained or improved. Reserves should not be funded at 100% that is not realistic in today's economy. The HOA Academy recommended funding Reserves at 70% which is a comfortable range for an emergency. We have been at 74% and will be going down to 60-65%, not as good, but we'll be back.

Treasurer Frenette, on follow up to Joe, I said we were overspending the Operational Account by \$28,000; this is more expenses being incurred than income coming in and this did not include Reserves.

Board Member Matsuishi, did we ever find out where the accumulation of funds came from?

Treasurer Frenette, I do not have the records in front of me, but in November 2006 there was a First National Bank Arizona Operating Account and a Compass Bank Operating Account. In October 2006 the First National Bank Arizona Operating Account came off the books. At this time, we surmise the funds came from eliminating one Operating Account and making only one Operating Account.

Board Member Matsuishi, we know we have over spent the first part of this year, what is the forecast for the end of the year?

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Treasurer Frenette, the way we have our Budget set up now, it is difficult to tell, because we don't have a good balancing for the budgets. This is what the Finance Committee will be addressing and that is balancing the spreadsheets so that we have more meaningful numbers and comparisons. The trend seems to be, we are going to have more accounts over budget than under.

## **MANAGER'S REPORT** (Jack Donovan)

Hatfield and Reynolds identified the problems with the lights at the North Park Pool to be a short in one of the control boxes. It has been fixed and the lights are on again.

Cleaning of the underside rim of the Yacht Club Pool has begun, once the algae build-up has been eliminated, the pool and spa will reopen. So far only two of five bids have been received reference the RFQ to remove and re-set the decorative tiles around the top of the Yacht Club Pool. Bids are due May 19<sup>th</sup> and once a bid is accepted by the Board, the pool will be shut down to accomplish the repairs.

100% of the initial repair and cleaning of the masonry portion of the fences at Lake #2 which began March 30<sup>th</sup> has been completed. 70-75% of the welding and repair which began April 7<sup>th</sup> has been completed. The welds have been inspected by Property Manager Donovan and are up to standard. Several repairs that were missed on the initial walk around were identified and addressed. Advanced Painting and Contracting was awarded the painting contract for the fences around Lake #2 and will begin May 19<sup>th</sup>.

Preparatory work on the Yacht Club parking lot paving will continue May 14<sup>th</sup> and 19<sup>th</sup>. **ALL PARKING IS PROHIBITED AT THE YACHT CLUB ON THESE DAYS!!** The parking lot will be shut down the evening of May 13<sup>th</sup> and 18<sup>th</sup>, opening back up on May 15<sup>th</sup> and 20<sup>th</sup>.

Seal coating on the Yacht Club parking lot will start on May 28<sup>th</sup> and continue through, on the out side June 2<sup>nd</sup>, but I anticipate it will be completed by the end of May or June 1<sup>st</sup>. **ALL PARKING AND ACTIVITIES IS PROHIBITED AT THE YACHT CLUB DURING THIS TIME FRAME!!** Even though it will be an inconvenience to have the Yacht Club Pool, Spa and building down during this period, it is a necessity due to the equipment and hazards involved.

The Maintenance Committee and the Property Manager have begun inspecting all common area sidewalks in the Community. All sidewalks in need of repair, replacement or present a hazard shall be marked and addressed. Five repairs were completed around Lake #9 and work will begin next week around Lake #8. Lakes #3, #4, #5 and #6 still need to be inspected. The goal is to have all common area walkways inspected and necessary repairs addressed by the end of June.

Comments by, Warren Field, I've never known construction to finish on time, what contingency plan is in place for June 3<sup>rd</sup>, when people planning to attend the City Counsel meeting need to park at the Yacht Club?

Manager Donovan, this company works weekends and I feel comfortable that we will be able to park at the Yacht Club June 3<sup>rd</sup>.

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## OPERATIONAL MATTERS

### 1. Bids on Yacht Club Kitchen - (tabled from April 16<sup>th</sup> meeting)

Only two of the three bids were submitted within the RFQ time frame; Mid-State Mechanical at \$66,300 and Kowalski Construction at \$34,679. Despite numerous conversations and calls to the third company Americas Construction, a bid was not received. Property Manager Donovan recommends accepting the Kowalski Construction bid which is very comprehensive; it includes everything that has to be done, including drawing up plans, submitting the plans to both the City of Peoria and Maricopa County. A fax was received May 9<sup>th</sup> from Kowalski Construction advising the pricing for the plumbing fixtures/materials, dishwasher, hot water heater and countertops will be re-checked at the time of contract signing for any changes in cost. All other pricings quoted are still good for an additional 30-day.

President Alandar, we need to put a cap on the motion that if anything is raised more than 5%, the contract will not be good. We don't want to go any more than what they originally bid.

Frenette motioned, McCord seconded, APPROVE THE BID PROPOSAL FROM KOWALSKI CONSTRUCTION IN THE AMOUNT OF \$34,679 WITH A PROVISIO THAT IT CAN NOT GO OVER 5% OF THE TOTAL BID AMOUNT AND THAT THE KITCHEN COMMITTEE APPROVES BY WEDNESDAY, MAY 14, 2008 CLOSE OF BUSINESS 4:00PM.

**Motion Passed** (5–Yes)

Comments by Janez Tazioli, I'm wondering whether any of these bids have been before the Kitchen Committee. RoseAnn Fiebig may be the chairperson of the Kitchen Committee, but none of the other members of the Kitchen Committee have seen any of the bids. I thought the new way things were being done here and the purpose of a committee is to review items and provide an endorsement or not.

Manager Donovan, the Board and RoseAnn Fiebig were provided copies of the Mid-State and Kowalski bids when they came in.

President Alandar, RoseAnn Fiebig is the one who brought Kowalski Construction into the process; we assumed she was working with the Kitchen Committee, but apparently not. Does the Kitchen Committee not want the Board to accept this bid, do they want us to table it until the June meeting thereby giving you a chance to review and provide a recommendation?

Treasurer Frenette, I suggest we approve the bid pending the Kitchen Committees review and approval.

Comments by Janez Tazioli, I'm not disagreeing, I just saying the process should be kept in place and the Committee has worked together and are very much aware what needs to be done and I just think a few more sets of eyes (and I'm not the only one) to have contact. We would like you to approve it, if that is what you want to do, then let us have a look at it and then if there is anything glaring, we'll bring it up.

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Property Manager Donovan, any of the Kitchen Committee members can pick up copies of the bids from the Management Office Monday.

## 2. Proposed bid to remove Pine tree at Lake #2

After review with Carescape Landscaping it was determined that the Pine tree does not need to be removed but high trimmed to alleviate branches hanging over the two residents in the area.

**NOTE:** Property Manager Donovan left meeting at 10:02 am

## **OLD BUSINESS**

### 1. Gardens Expense Offsets – (Tabled from March 19<sup>th</sup> and April 16<sup>th</sup> meetings)

Proposal for administrative costs generated by the Gardens be charged to the Gardens budget rather than paid from the Master budget.

President Alandar, I placed this matter ahead of the proposed agreement with the Gardens for a reason. Our Treasurer, Moe Frenette, had originally placed this item on the agenda on March 19<sup>th</sup>, with the idea of asking the Board to take some administrative offsets out of the \$77,000 that was transferred from the Master Reserves to the Gardens Reserves at his recommendation by the Board's motion of April 16<sup>th</sup>. He withdrew that idea because of the creation of the *Ad hoc* Committee charged with resolving the document conflict on common area maintenance. Mr. Frenette did not intend for this to be placed back on the agenda. However, I wanted it on the agenda, for two reasons.

FIRST: I believe, and I think Mr. Frenette now agrees from a brief conversation we had, that any decision to charge the Gardens for administrative costs should be a policy decision made by the entire Board, not a burden carried only by the Treasurer. It should therefore be on the Board's agenda as either a general policy, or as an item-by-item decision.

SECOND: In the agreement, which is next on the agenda, item number 7 addresses this same issue and I do not believe it belongs in that agreement as it has nothing to do with the maintenance of common areas. It is something that should be addressed separately as an individual issue and not through the back door, so to speak.

I would like ask the Board for their thoughts. First I have to ask a question of Mr. Fiore and Mr. Frenette, did the two of you not meet and make a decision regarding some legal fees charged to the Gardens in the first quarter of this year, because of legal opinions sought on behalf of the Gardens?

Board Member Fiore, that is correct.

Treasurer Frenette, that is correct and there is a correction that took place in the month of January where the Gardens were over charged for legal fees because all the questions did not involve the Gardens. There were three legal questions that did involve the Gardens specifically; insurance, repair in a home and a termite question. The only legal fees to the Gardens are those that are specific to the Gardens.

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President Alandar, and Mr. Fiore you agree legal fees should come out of the Gardens budget?

Board Member Fiore, I agree with Moe at that particular meeting to accept that adjustment and I am waiting for the results of this meeting for any future.

Treasurer Frenette, there's also another piece to this, we have a management fee charge by the Colby Management Company for processing everything associated with our accounts. There are two separate budgets processed, one for the Master Association and one for the Gardens. Both accounting systems have their own separate revenue streams and expenses. There have been shared expenses paid by the Master Budget for both sides such as; Colby accounting fees, taxes, Reserve studies and audits. By adding the total income of both (Masters and Gardens) budgets, 8.11% of the account management fees are attributable to the Gardens and should be charged to the Gardens.

Board Member McCord, if we are or have agreed to reimburse the Gardens Reserve fund, it just seems logical that we should assess them for their portion of the management administrative fees.

President Alandar, there are a couple of ways of looking at it; the Gardens resident pay two separate assessment fees, one is the same fee everyone at Ventana Lakes pays, that is the fee for running Ventana Lakes. That pays for common areas, administrative fees, management fees, utilities, everything that it takes to run a community. They also pay a fee for maintaining their landscaping, their roofs and painting. That is what the second fee is for, so I am not sure we should be taking money out of the second assessment to pay for the same thing they are paying the first assessment to cover.

Treasurer Frenette, I wholeheartedly disagree with that because Colby is providing the Gardens with an accounting service to track their income and pay for their maintenance services, the Master Budget should not cover these expenses. When the Reserve study and taxes were conducted, the Gardens were not charged.

Board Member Fiore, if we are paying \$183 dollars just like every one else, are you planning to reimburse the Gardens homeowners that portion of all the administrative expense and then charge the Gardens separately? I'm asking if there is going to be an adjustment on the \$183 fee.

President Alandar, that hasn't been decided.

Comments by Don Horton, these offsets would only apply to parcel assessment areas. As far as we know there is only one parcel assessment area in Ventana Lakes and that is the Gardens which represents 108 people. The legal fee that was charged the Gardens in February was \$3,351 dollars and that has been adjusted down in March to \$1,936 dollars. Examples; if a non-parcel assessment area homeowner asked a question that was sent for a legal opinion, all 1,701 homeowners would be charged for covering the legal expense. But, if a parcel assessment area (Gardens) homeowner asked a question that was sent for a legal opinion, only the 108 homeowners would be charged for covering the legal expense. If the legal fee totaled \$5,000 that would equate to; \$2.94 per 1,701 homeowners or \$46.30 per 108 homeowners. With respect

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to the common areas, A-Z was improperly listed (according to one Judge and 3 attorneys) the Gardens should not have been charged. The Tract document registered for the land does not have that language, but it was improperly included in the budget three months after the homes were built.

*(A brief verbal disagreement regarding the legal listing of the land occurred between Mr. Horton and Mr. Homan)*

Comments by Chet Homan, if we had one set of records it would be proper to charge everybody the same amount, however we don't, we have two sets of books and the second set of books is strictly the Gardens and it's necessary because they do things that are specific to just the Gardens. The second set of books does absolutely nothing for anyone outside the Gardens, therefore that portion of the legal fees, Colby accounting or anything else should be charged to the Gardens.

Board Member McCord, I don't believe the division between the Master and the Gardens are that lopsided. Are you saying that could or did happen?

Comments by Don Horton, yes it did happen this year, in the financial reports for February and March these offsets were applied, \$3,351 was applied, then there was some discussion and then it was reduced to \$1,936. That's \$1,936 dollars the Gardens will pay for because we asked the question that the Board deemed necessary to go to the attorney. If anyone outside the Gardens ask that same question or has that same problem, everyone pays the bill including the Gardens residents.

Comments by Chuck Schumm, the man is absolutely correct, but here is the reality of the situation; when you buy a home with a very small group of people your cost (in regards to legal issues) is probably the same as it would be for another group of people that have 2-3,000 people, they call that an economy a scale. When have only 108 homes, you better be frugal, because the cost is divided by 108 as opposed to buying where there is 2-3,000, you don't have to be as frugal because the costs are 30-40 cents a homeowner. He is right, but that's the way it is, every community around us, West Brook Village, Garden Lakes, Sun Village has areas within their communities that have costs associated with them that are not part of the larger community and if they did not exist, the cost would not exist. Those people bare that cost, it is unfortunate they only have 108 units, but that is the way it is.

Comments by Chet Homan, I just want to clarify something said earlier. It is not true that the same question asked outside the Gardens would cost the same, because the question would not be the same as the Gardens question, because the Gardens question was specific to the Gardens. If the concern is over when the Gardens ask a legal question, should the Gardens have their own Board to determine when a question is sent to the attorney?

President Alandar, you make a point I've thought about, the questions that went to the attorney were because the Board made the decision to, not because the Gardens did. That's my concern. Now as far as the accounting fees and the general administrative cost, it's true they exist because

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the Gardens exist, those are different. I'm not sure if the legal fees should be charged back because they didn't ask us to submit them.

Treasurer Frenette, I disagree with that because it was three questions specific to the Gardens which needed clarification and only Gardens residents receive the benefit not the remaining 1,593 homeowners.

Board Member Matsuishi, Mr. Horton, correct me if I'm wrong, my understanding is that the residents of the Gardens would be acceptable to having their fair share or portion paid by the Gardens?

Comments by Don Horton, I would agree with that, but the problem is, who makes the decision as to how these charges will be assessed and apply. What I think this will lead too, if these charges for some reason become excessive, then homeowners will object and possibly seek legal action.

Board Member Matsuishi, I think a possible solution, isn't there is a group already that represents the Gardens?

Comments by Don Horton, I think so.

Board Member Matsuishi, why couldn't that group and the Board get together and determine how or if the Gardens should be assessed. That way the Gardens have input and the Board has input.

President Alandar, no I think it needs to be decided in an open meeting; it's an important issue and affects the whole community and the future of Ventana Lakes. We need to address this and look at all the alternatives to benefit everyone. I suggest we table this since we are already over time and need to move on. Do you want to table it until the June Meeting or this Fall?

Comments by Don Horton, this Fall.

McCord motioned, Matsuishi seconded, TABLE UNTIL THE FALL DURING WHICH TIME FURTHER INFORMATION AND ALTERNATIVES CAN BE OBTAINED.

**Motion Passed** (4-Yes, Frenette – No, Fiore – Abstain, Smith – Absent)

## 2. Proposed Resolution and Agreement with the Gardens

(Previously called: *Request all Common Areas be maintained under Master Budget*)

(Tabled January 16<sup>th</sup>, March 19<sup>th</sup> and April 16<sup>th</sup> meetings and a Special Open Meeting April 23<sup>rd</sup>)

Garden homeowner Don Horton asked to amend the Tract declaration for the Gardens at Ventana Lakes to clarify that common areas in the Gardens are not included in the Parcel Assessment Areas. Copies provided to attendees.

President Alandar, I am asking that Item #7 of this Resolution be removed because I believe it needs to be discussed as a separate issue. That is the matter of charges outside the 2008 budgeted items assigned to the Gardens in the first quarter of 2008 is rescinded.

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Board Member Matsuishi, before we vote on this Resolution, there are two items that are missing that were agreed upon by the Gardens Ad hoc Committee and they need to be added; the words “all costs” be removed from all documents and the Gardens irrigation system is integrated with the Common Areas. Therefore, costs relating to the irrigation system, water and electricity will be shared equally by the Gardens and the Master Association.

Board Member McCord, clarification; looking at item #2 of the Resolution which refers to Common Area tracts no longer being part of the Parcel Assessment area as defined by Article 1, Section CC of the CC&R’s, pursuant to the Sixth Amendment of the CC&R’s. Can we by adopting this Resolution actually affect a change to the CC&R’s?

President Alandar, no, we are interpreting, the attorney says we can interpret the CC&R’s by using this particular section.

Treasurer Frenette, I just want to make sure everyone knows there is going to be additional expenses that are going to have to be picked up by the Master Association.

President Alandar, the transfer of funds will be putting a strain on the Master Association budget at this time. Rather than transferring the \$40,000 as one lump sum, I was wondering if the Gardens would be willing to accept \$10,000 transfers over the next four years?

Comments by Don Horton, there are two members here from the Ad hoc Committee, we make a quorum and we do not have an objection.

President Alandar, we appreciate that Mr. Horton, we are one community and that would help out financially.

Comments by Chuck Schumm, just as a matter of point, I would not approve any Resolution of this nature until it was in its final form in front of the Community, in front of the Board. You’ve already struck one paragraph out and are adding two new paragraphs that not one of us has read. If you want to approve it, let’s get it in its final form and get it out so we can read it and understand its meaning.

Comments by Dave Bracken, this is a scary situation based on one attorney’s interpretation. I’d get a second opinion. Personally I don’t see how you can change a Tract declaration based on five people; to amend the CC&R’s requires all 1,701 homeowners voting.

President Alandar, what we have is an attorney’s opinion that the CC&R’s are very clear that all Common Areas have to be maintained by the Association. The Tract declaration says something else, the CC&R’s override. That is our attorney’s opinion.

Comments by Dave Bracken, but the Tract declarations are attached to the titles for those properties not the CC&R’s.

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Board Member Matsuishi, one of the things the Board did was to pass the Resolution through the attorney. There were three recommendations and the reason we chose this one, it was the least costly to the homeowners Association. If we don't do this, then we're open to a lawsuit like we had with the Shores and the cost is going to be extremely high. The \$40,000 that was recommended is a very, very reasonable fee for all concerned.

Comments by Joe (Last Name inaudible), I don't think this is right, I've lived where every time more money was needed to maintain the common areas, the people who lived in the Condos, their fees would go up, not the everybody else's. We shouldn't have to pay \$40,000 for something the Gardens are responsible for.

Comments by Chuck Schumm, there seems to be a misnomer about whether the Association should be paying for it, the Association is paying for it. The Association is collecting assessments for the Gardens for costs that are absolutely costs associated with the Gardens; the Association is collecting assessments that are associated with the Masters. The Association is doing what the Association is suppose to do, the Board wears two hats, like it or not. When you have one hat on, the cost goes that way and when you have the other hat on, the cost goes that way, that's the way you manage it. Every Community around here has the same situation; they have areas that have higher assessments than other areas, which are the way it's done. Yeah, they can sue, but their not going to win this one, because I can show community after community after community where the same set up is done. You pay for what costs is incurred because of you.

Comments by Ken Hunstad, remember when I said last meeting that everyone is responsible for their own actions, they signed a document for their house where ever, you get what you signed for.

Comments by Bill Keitel, first off, I'd like Mr. Fiore to reclude himself from any discussions on this subject and remove himself from the room while any discussions are being held on the subject. Mr. Fiore is a resident of the Gardens and stands to gain for a decision. Although I can not find a specific statute that forbids his attendance, it may be a moral one...

President Alandar, Mr. Keitel we are not going to make this personal, Mr. Fiore has been cleared by our attorney to be part of this, there is no legal reason he can not be part of the discussion. Mr. Keitel you are out of order.

Comments by Bill Keitel, may I speak on another topic. A second opinion was raised; I think that's a sound suggestion. The documents are very, very clear in so far as indicating that we have a common assessment area here, full expenses in maintaining the common assessment area and the people enduring that assessment area. You have an attorney's interpretation, so you say, we don't know where the difficult here arises, and you probably don't want to disclose the attorney client privilege. What I find interesting is, although the documents seem very clear I haven't heard anything where the Board has said let's take a look at what we're doing to 1,597 residents. Should we be looking at ways to make this document comply with the intent of the charter declaration? For instance, let's look at these Tracts that we can not access legally

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without trespassing on private property. Has anyone done a quick claim filing for about ten dollars?

President Alandar, actually the Tract declaration gives the Association an easement over the lots to perform maintenance. We have no problem, access is not an issue. However, I will bring to the Board would you like to get a second opinion from an attorney, perhaps from Ekmark Ekmark?

Frenette motioned, (No One) seconded, GO FOR A SECOND OPINION AND WHAT EVER DECISION COMES OUT, IT IS RETROACTIVE BACK TO THE FIRST OF MAY.

**Failed for a lack of a second.**

President Alandar, it's a good thought Bill, but our attorney did spend a lot of time and wrote some very good and well thought out letter, he considered it from every angle. I have to accept his opinion, it's a good opinion. We've had a lot of discussion and some times the Board has to do what it thinks is right, this is a hard job. We are looking at a very large lawsuit; we have some facts from our attorney that makes us believe this may be costing the Association a lot of money.

Comments by Don Horton, very important what the Judge from the Shores litigation had to say, which was; specifically the areas in question are agreed by parties to be Common Areas, as the term is used in the Master Declaration and this instance it is clear that provision of Article X controls of the Association has the obligation to maintain right a ways and subject easement areas. We are not talking about exactly the same thing, other than the fact we are speaking about Common Areas and let's make it clear, that is the only thing the Gardens is asking for the acceptance of the charges involved with the Common Areas. I have had two different attorney's review documents and they have both agreed the Association should be maintaining the Garden's Common Areas.

President Alandar, at this time I am closing the discussion.

Treasurer Frenette, I will not vote until Tony Fiore announces his intentions as to whether he going to vote or abstain.

Board Member Fiore, I am a Board Member and will make that decision when it comes to me.

Matsuishi motioned, McCord seconded, PROPOSE APPROVING RESOLUTION REGARDING THE GARDENS' PARCEL ASSESSMENT WITH THE REMOVAL OF ITEM #7, RENUMBER ITEM #8 TO ITEM #7 AND ADD THE GARDENS AD HOC COMMITTEE'S TWO MISSING ITEMS AS ITEMS #8 AND #9.

**Motion Failed**

(3-Yes, Alandar, Matsuishi & Fiore / 3-No, Frenette, Norris & McCord / 1-Absent, Smith)

Board Member McCord, even though this motion failed, a new motion can be made later.

President Alandar, This will be placed on the June Agenda with a clean draft and include the \$10,000 a year for four years.

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### 3. Proposed Policy 2008-01: Rules of Practice for the Board

This was read at the March 19 Board meeting, published in the April newsletter, but will not be read again.

Frenette motioned, McCord seconded, ACCEPT POLICY 2008-01; RULES OF PRACTICE FOR THE BOARD.

**Motion Passed** (5-Yes, Smith – Absent)

## **NEW BUSINESS**

### 1. VLPOA Fees Charged to Instructors

The Board has been asked to consider not charging fees to various class instructors in Ventana Lakes, as they provide amenities for the homeowners in Ventana facilities. Jack has advised income generated from such fees is far less than \$100/year.

Frenette motioned, Matsuishi seconded, APPROVE RESCINDING VLPOA FEES CHARGED TO INSTRUCTORS PROVIDING SERVICES TO VLPOA HOMEOWNERS ON VLPOA PROPERTY.

**Motion Passed** (5-Yes, Smith – Absent)

### 2. New Volunteer Program and Defining a Volunteer

There is currently no standard defining who should be considered a "volunteer" who will be honored by the Association using Association funds (such as an annual dinner.) The Board will begin community discussions on a new formalized volunteer program. We have many volunteers who put in hours of service, especially on committees: Architectural, Maintenance, and Lakes come immediately to mind, although there are plenty of others. Without these persons, we would be paying a huge fee for outside services to provide clerical assistance, repair our facilities and common areas, and maintain our lakes and fish. We have plenty of other people who are not as regular, but who do pitch in and help when they are called upon with cleanup and maintenance and decorating and just about anything that comes up. Then we have people who put together social functions. They organize fun events for everyone else, maybe on a regular basis, maybe once a year, and maybe only once in a lifetime. But as a Board, we need to start looking at how we can make it fun to be a volunteer and not break the bank doing it.

This is what's great about belonging to a Community, getting involved. ANYONE who knows how or wants to put together a fun club or event – or just be part of putting something together. I'd like you to send me – by note or e-mail – ideas on how we can celebrate our volunteers. Like picnics, or barbeques, and how they could be organized. AND...how we could have some fund-raisers to do it!

### 3. Allowing VLPOA Homeowners to bid for work under new RFQ process

The question has been raised: if a resident has the qualifications and licenses necessary to compete for a contract and meets the specifications of an RFQ, may they compete against outside vendors?

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The Board has implemented a policy requiring our Community Manager to use a standardized “Request for Quotation” format for contracting services for Ventana Lakes. This format requires any vendor to be licensed, bonded or insured and qualified in their profession and to provide references and warranties appropriate to the nature of the contract.

There has been a long-held “understanding” in Ventana Lakes that residents may not be paid for their services for the community. This is reasonable from the point of view that we have volunteers who perform work for Ventana for free, and it would hardly be fair to pay some people and not others.

However, when it comes to contracting for services under the RFQ process, we would be comparing apples and oranges. A Ventana Lakes homeowner who has their own business is unlikely and probably unable to offer their business services for free, but may be more than willing to compete with other businesses for the same job, and may offer his community a lower price as a way to help their community the best they can.

Legally, Board members are NOT eligible for payment under the CC&R’s. However, our governing documents do not address paying any other homeowner for services. Policy Resolution 2006-13 “Volunteer Payment,” states only “BE IT THEREFORE RESOLVED that residents will not be paid for participating in Ventana Lakes activities. Exceptions may be made at the discretion, and with the approval, of the Board of Directors.” It appears that this policy applies only to Entertainers.

President Alandar, I recommend the Board adopt a policy making it clear that Ventana Lakes homeowners are eligible to compete with other vendors when a Request for Quotation is issued by the Management Office. In order to be notified that an RFQ is being issued, the homeowner needs only to register with the COMMUNITY MANAGER FOR THE RFQ LIST their business name, contact name, address, phone number, fax number and/or e-mail address and the type of business they offer.

Matsuishi motioned, Fiore seconded, APPROVE ALLOWING ANY QUALIFIED CONTRACTOR, REGARDLESS OF WHERE THEY LIVE TO PARTICIPATE IN THE VENTANA LAKES BID PROCESS.

**Motion Passed** (5-Yes, Smith – Absent)

Comments by Chet Homan, I believe this will be a definite improvement for the residents and the Community as a whole. Caveat, it should be very clear in writing any resident who bids on a project while have to follow all procedures, meet all qualifications, and be held to the same level of responsibility as any other contractor.

Comments by Bill Keitel, I think something that needs to be consider in this whole process, what if the project does not meet the specifications, we may have to sue a resident.

Board Member McCord, I don’t see it as taking a resident to court, I see it as taking the contractor to court.

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President Alandar, Bill you can come take a look at the RFQ form, it is very detailed in what is required of the contractor and the process they must follow. They will be treated like any other business, the fact that they live here is not an issue.

Treasurer Frenette, it's no different from taking a homeowner to court for delinquent assessments.

Comments by Joe (Last Name inaudible), first off I'd like to apologize to all the people in the Gardens, I didn't mean anything mean, they have a right to complain when they have a problem. My problem is ever since I've lived here (3 years) I've been threaten with raising our assessments and now we're being threatened with lawsuits. Every time there is a new conflict it cost us more and more money, that's what I was trying to say. I think \$10,000 is fair, but we didn't get to vote on anything, we were told \$40,000.

President Alandar, that is why you elect a representational Board. Even though this is off topic, there is one think I'd like to do and that is sue Lennar because they're the ones who wrote lousy documents, walked away and left us with this mess.

#### 4. Verizon Landscaping Restoration

Now that the Recreation Center is done, our agreement with Verizon only calls for restoring the area to grass. They have agreed to re-seed the area, monitor to ensure it grows and review whether they will also repair the irrigation lines.

President Alandar, there are Association plans to convert this area to gravel but the cost would be \$4,815 for gravel and labor at the Association expense. We haven't yet prioritized our landscaping needs, but if we are doing this section in gravel we would need to do the twin section further east. And this cost would not include any plants so we are talking a very sterile look, right off of Beardsley road which should be our showplace.

Comments from Ken Hunstad, have we ever received the updated drawing on the easement, the old one is incorrect. There is supposed to be a 6-8 foot graveled easement from Beardsley for maintenance access.

President Alandar, as Architectural Committee members Ken and Moe will you please follow up on obtaining the drawing so I can finalize this with Verizon.

Comments by Dave Bracken, there was conversation with the Verizon Manager regarding easement rights and he was instructed to go back to the VLPOA Board to negotiate.

Comments by Chuck Schumm, have Verizon replace the grass, even grass the easement that way if they come in on some future date and damage the grass and irrigation lines along the easement, their responsible for replacing it again. That's what easements are, they have a right to come in on it and if they damage it they must return it to its original state. It is a showcase area, I think we need grass.

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Frenette motioned, McCord seconded, REQUIRE VERIZON TO RESTORE THE AREA AROUND THEIR ANTENNA BY THE RECREATION CENTER TO ITS ORIGINAL GRASSY LOOK.

**Motion Passed** (5-Yes, Smith – Absent)

## COMMITTEE REPORTS

Finance – (New Committee, Members: Chet Homan – Chairperson, Chuck Schumm, Moe Frenette, Darrell Smith, and John Lugo) The Committee has been reviewing the current budget and should have a report by the next meeting. Two issues have been discussed; due to potential budget short falls; recommend the Board not reduce or eliminate any sources of income (example today was the Instructor fees, that's a very minor one). Second, every financial entity within in Ventana Lakes should be required to bear its fair share of all expenses. In general, every budget, every organization should be charged and expected to pay their fair share. Every Board decision can have an adverse affect on the budget. The final item, we recommend the Reserve Study as it was presented be our current way.

Architectural - Ken Hunstad, processed requests for fourteen house paintings, thirteen landscaping issues, three concrete walkways/driveways, and five awnings/security doors and we completed twenty-three inspections, four home resale inspections and four follow up inspections. I do have a question for the Board; every member of the Architectural Committee received an offer to resign so other people could volunteer. I don't know, but apparently somebody doesn't like what we do, and if the Board wants me to resign then put my name on it.

President Alandar, the letter explained that there were negative comments made to the Board regarding our policy allowing the Community to review the Architectural Rules. And if any member of the Architectural Committee does not agree with the Board's policy of representational review and the way that we like to run the Community as a representational Board, we would ask that you do resign so that other people who do agree with the policy can be on the Architectural Committee. Do you agree with the policy? We took the stand that before we approve or disapprove we'd like to hear the opinion of the Community. They have never had the opportunity to look at the Architectural guidelines and give any input of their own. It doesn't seem right to have only five people making decisions that affect the entire Community with no input what's so ever. These have been in place for several years now and it seems correct to have them reviewed at the same time as our governing documents.

Ken Hunstad, well we go by the CC&R's, the CC&R's are the ruling document.

President Alandar, no one has said you do not, what we are asking is that the Community has the right to review the Architectural Rules. Do you or do you not agree that the Community has the right to review the Architectural Rules?

Ken Hunstad, Sure and I still say most of you don't have a clue what we do except Moe and you.

Maintenance - Dave Bracken, the dumpsters located at the Recreation Center and the Yacht Club are being used for personal use by homeowners, which I don't have a problem with, but the lids need to be shut to avoid odors. The problem at the Recreation Center occurs after the City of

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Peoria Sanitation empties the dumpsters, the lids are left open and the dumpster is returned to its corral which prevents the lids from being able to be closed. The problem at the Yacht Club is none of the dumpsters have lids. Property Manager Donovan notified to contact the City of Peoria to fix both problems. If you use the dumpsters please close the lids, Peoria picks up twice a week.

Lakes – (Tim Willems – absent) No Report

Board Member McCord, On the same day as the Peoria City Counsel meeting the Mining Board is meeting at the Yacht Club at 1:00 pm. The Mining Board makes recommendations to the Maricopa County Board of Supervisors about what happens in the traffic ways, they want input from the community.

Comments by Chet Homan, I hope what you meant to say earlier reference the Architectural Committee was that you expect them to FOLLOW Board decisions, not that they need to AGREE with the Board. And, I would hate to lose any member of the Committee.

Comments by Don Lorentzen, one committee missing off your list is the Landscape Committee.

President Alandar, right now our Landscape Committee is short, we tried to call a meeting last week and only two people showed up. Right now the Gardens has a Landscape Committee, we've tried to create one for the Master Association and have not had a lot of luck with it. Currently the only two members are Tim Willems who is co-chairing with my husband Jim Alandar.

Comments by Ken Hunstad, the Architectural Committee advertises their meetings which are every Monday at 10:00 am, are the other committees advertising their meetings dates, times and locations to the Community?

President Alandar, I think they are advertised in the Newsletter, I'll have to check.

McCord moved, Frenette seconded, THERE BEING NO FURTHER BUSINESS TO DISCUSS, MOVED TO ADJOURN.

**Motion passed** (6-Yes, Smith – Absent)

**Board Meeting adjourned at:** 11:37 a.m.

\_\_\_\_\_  
Lori Norris, VLPOA Secretary

Date: \_\_\_\_\_