

Board of Directors Meeting Minutes April 12, 2014



President Barbara Reniak at 9:01 A.M, called the meeting of the Board of Directors of the Montego Bay Civic Association to order. The President led the Pledge of Allegiance.

Roll Call: The President and eleven voting members were present.

President Barbara Reniak – Present					
P = Present		Voting Members		A = Absent	
Linda Herzberg, VP	P	Monica Cofiell, Treas ¹	P	Tony Kendrick, Sec	P
George Carter ¹	P	Sue Frankowski ¹	P	Eileen Furnari	P
Dennis Julian	P	Barbara Rayner ¹	P	Kim Schulz-Goss ¹	P
Tom Seibold ¹	P	John Shifflett ²	P	Al Weber ⁴	A

Highlighted names are up for re-election in August 2014

- In accordance with Section 4.3 of the MBCA Bylaws, having missed four meetings, Al Weber is no longer a member of the Board.

Good of the Association:

- The President asked if any owners in attendance wanted to speak. No owner wished to speak. The President then announced that the business portion of the meeting would begin.

Business Meeting – Director and Officer and Committee Member participation only

President’s Report:

- The deadline for voting on the proposed Declaration of Restrictions was February 8, 2014.
 - However, because:
 - the overwhelming preference for passage by the majority who voted, and
 - only 6 more “yes” votes would have resulted in the passage of the Declaration on that day, and
 - that the required number of “yes” votes were received the following work day when the mail was checked,
 - The President reported she felt obligated to contact the Association Attorney for a legal opinion regarding the counting of ballots.
 - The attorney responded [*copy attached*] that
 - “nothing in the current Declaration of Restrictions [*the 1992 document*] requires a vote to amend the Declaration to be obtained within a set period of time” and, therefore,
 - “the Board should not have imposed such a stringent deadline for responses” and that
 - it is within the current Declaration of Restrictions that “the Board could vote to extend the deadline and count all of the votes received by that deadline.”

Motion: John Shifflett Seconded: George Carter	Approve counting Declaration of Restriction ballots received up to April 12, 2014.	Passed
Voted in Favor: 10	George Carter, Monica Cofiell, Eileen Furnari, Linda Herzberg, Dennis Julian, Tony Kendrick, Barbara Rayner, Kim Schulz-Goss, Tom Seibold, John Shifflett	
Abstained: 0		
Voted Against: 1	Sue Frankowski	

DISCUSSION:

- Sue Frankowski asked by extending the deadline, how would people have known they could have kept voting after February 8, 2014. George Carter responded that the ballots were likely mailed with the intention of arriving by the deadline. “Extending the deadline to today,” he continued, “is a grace

period for receiving delayed ballots.” The Association Attorney also pointed out intervening events that could have influenced why some ballots were delayed

- The President called for the vote. Passed.
- Ballots received after February 8, 2014, were put into a locked ballot box pending the outcome of the legal opinion and action by the Board. The ballot box was unlocked by the President and then the ballots were publically displayed and counted. The Secretary counted the ballots out loud, members of the Board kept track of the count, and following the count the Board and guests were given the opportunity to double-check the ballots and the count. The results of the February 8, 2014, vote and the April 12, 2014 vote are:

1,501 Owners in Good Standing are eligible to vote		
751 votes required to pass		
February 8, 2014	April 12, 2014	Total
846 received.	26 received	872 received
1 - invalid.	1 invalid	2 invalid
99 - “no”	6 - “no”	105 - “no”
746 - “yes”	19 - “yes”	765 - “yes”
The updated Declaration passed with 14 votes greater than the necessary 751 votes		

- The Declaration of Restrictions was declared passed, was signed by the President and the Vice President, and became effective this date, April 12, 2014. The signed document will be provided to the Association Attorney for recording in the Land Records for Worchester County, Maryland.
- The President nominated Mary Jane Maxwell to serve out the remainder of Al Weber’s term. The Board affirmed her nomination with a unanimous round of applause.

Secretary’s Report:

- The Executive Committee carried out approving the minutes of the February 8, 2014, meeting on March 10, 2014 and they were posted on the web.

Motion: Tony Kendrick Seconded: Monica Cofiell	Approve the minutes of the December 14, 2013, Board Meeting.	Passed
Executive Committee Voted in Favor: 12	George Carter, Monica Cofiell, Sue Frankowski, Eileen Furnari, Linda Herzberg, Dennis Julian, Tony Kendrick, Mary Jane Maxwell, Barbara Rayner, Kim Schulz-Goss, Tom Seibold, John Shifflett	
Abstained: 0		
Voted Against: 0		

DISCUSSION: None.

- The President called for the vote. Passed.

Treasurer’s Report:

Motion: Monica Cofiell Seconded: Linda Herzberg	Approve the March 2014 – April 2014 budget report as presented.	Passed
Voted in Favor: 12	George Carter, Monica Cofiell, Sue Frankowski, Eileen Furnari, Linda Herzberg, Dennis Julian, Tony Kendrick, Mary Jane Maxwell, Barbara Rayner, Kim Schulz-Goss, Tom Seibold, John Shifflett	
Abstained: 0		
Voted Against: 0		

DISCUSSION: None.

- The President called for the vote. Passed.

Motion: Monica Cofiehl Seconded: Kim Schulz-Goss	Approve the May 1, 2014 – April 30, 2015 budget.	Passed
Voted in Favor: 12	George Carter, Monica Cofiehl, Sue Frankowski, Eileen Furnari, Linda Herzberg, Dennis Julian, Tony Kendrick, Mary Jane Maxwell, Barbara Rayner, Kim Schulz-Goss, Tom Seibold, John Shifflett	
Abstained: 0		
Voted Against: 0		

DISCUSSION:

- 1,063 lot owners have paid their 2014-2015 annual dues.
- 3 lot owners had their checks returned.
- 462 lot owners have not paid their dues.
- The President called for the vote. Passed.

Old Business: None.

Committee Reports:

Advisory and Strategic Planning, Bill Trumpler, Chairman.

- There was a joint Advisory and Strategic Planning Committee and Budget and Finance Committee meeting on March 21, 2014. Under discussion was:
 - Allocation of the 2013-2014 Reserve contribution
 - Allocation of remaining operational funds because of good budget management
 - Transferring banking account to another local bank

Budget and Finance, Kathie Kendrick, Chairman.

- Allocation of the 2013-2014 Reserve Budget
 - At the end of the 2014-2015 fiscal year the Operational Budget amount expected to be available for distribution, the Committee recommends transferring the amount into the Reserve Account.

Motion: Monica Cofiehl Seconded: George Carter	Approve the transfer of end-of-year operational funds available to the Reserve Account.	Passed
Voted in Favor: 12	George Carter, Monica Cofiehl, Sue Frankowski, Eileen Furnari, Linda Herzberg, Dennis Julian, Tony Kendrick, Mary Jane Maxwell, Barbara Rayner, Kim Schulz-Goss, Tom Seibold, John Shifflett	
Abstained: 0		
Voted Against: 0		

DISCUSSION: None.

- The President called for the vote. Passed.
- Allocation of remaining operational funds because of good budget management

Motion: Monica Cofiehl Seconded: George Carter	Approve the transfer of end-of-year operational funds available to the Reserve Account.	Passed
Voted in Favor: 12	George Carter, Monica Cofiehl, Sue Frankowski, Eileen Furnari, Linda Herzberg, Dennis Julian, Tony Kendrick, Mary Jane Maxwell, Barbara Rayner, Kim Schulz-Goss, Tom Seibold, John Shifflett	
Abstained: 0		
Voted Against: 0		

DISCUSSION: The allocation of the funds will be toward the office building maintenance and repair account and to the pool buildings. Those two areas are at the highest risk of needing attention in future years.

- The President called for the vote. Passed.

- Transferring Association banking account from the current bank to a new bank.
 - Management, investment, and services goals can better be met by exploring opening a business account with another local bank.
 - The Board confirmed their support of the motion passed September 8, 2012, that the Treasurer, with the Budget and Finance Committee and oversight by the President and Vice-President, could decide on CD investment transactions without needing the approval of the Board. And, by consensus, the Board extended that authority to include changing banking institutions and closing and establishing banking accounts. The President must approve any final transaction.

Architectural & Permit Review: Tony Kendrick, Chairman, reported:

- Under the newly passed Declaration of Restrictions, the Board imposes fines for violations of the restrictive covenants. Owners are responsible to monitor and maintain their property with such frequency that they do not violate the restrictions. Of those who fail to monitor their property and receive a violation notification letter, a few repeatedly fail to monitor their property. The Association is not a property manager for individual lot owners. Therefore, the Association has no responsibility or authority to send out warning letters.

[Dennis Julian departed the meeting at 10:02 am]

- However, the letters sent do provide the violating owner a timeframe to take corrective action and if the action(s) are completed within that timeframe, the per-day violation penalty does not go into effect.
- The recommendation to the Board is that repeat offenders of not monitoring and, therefore, maintaining their property in a timely manner is that all subsequent notification letters result in an automatic \$75 penalty. The \$75-per-day penalty will be applied, as in the past, after the deadline has passed and the owner has taken no corrective action.
- Tony Kendrick passed out a written procedure [attached] for the Board to review and add to the Director’s Manual and publish it so owners have access to the policy and procedure.

Motion: Kim Schulz-Goss Seconded: Barbara Rayner	Approve the procedure of notifying owners of violation of the restrictive covenants and repeat offenders will be fined an automatic \$75 for each notification thereafter.	Passed
Voted in Favor: 11	George Carter, Monica Cofiell, Sue Frankowski, Eileen Furnari, Linda Herzberg, Tony Kendrick, Mary Jane Maxwell, Barbara Rayner, Kim Schulz-Goss, Tom Seibold, John Shifflett	
Abstained: 0		
Voted Against: 0		

DISCUSSION: The general discussion centered on establishing and applying a procedure consistently and objectively so that everyone is treated the same.

- Property “A” and Property “C” were notified, the deadline passed, they received a second letter, and then the violation was corrected. The Board agreed that Properties “A” and “C” should pay the \$75 penalty for violating the restriction and, because it was their first time for a violation that the \$75-per-day will be waived.
- Property “B” was notified repeatedly over the past 12 months to take corrective action and has failed to do so. The \$75-per-day penalty was applied and the lot owner’s account has been turned over to the Association Attorney to begin collection procedures and place a lien on the property if necessary. The Board agreed that the collection process is appropriate for Property “B.”
- There are generally two reactions to receiving a penalty letter – the owner promptly takes corrective action or the owner contacts the Association to discuss the letter and violation. That is the goal, to have the violation corrected or to communicate with the violator.
- The goal is not to collect a penalty; the goal is to maintain the standards of the community. Sometimes it takes a violation letter to encourage owners to monitor their property or arrange to have their property monitored and maintained in their absence.
- Violators accruing the \$75-per-day penalty are turned over to the Association Attorney between 30 and 60 days after the start. Once turned over to the attorney, the \$75-per-day penalty stops.

- Some violations are not do-it-yourself repairs, “time and weather permitting,” and owners should consider local contractors or lawn services to monitor their property so that they do not get a violation notification letter.
- Example: If an owner does not mow their lawn repeatedly, every notification from the Association will be a \$75 penalty for repeatedly violating the restriction to monitor and maintain their property.
- The President called for the vote. Passed.
- There will be a meeting of the Architecture and Permit Review Committee at 9:00am on April 19, 2014, at the MBCA Office. If the meeting is not completed by 9:30am or before the General Membership Meeting, the meeting will continue after adjournment of the General Membership Meeting. The topic of the meeting is “garages and car ports” in Montego Bay.

Budget and Finance, Kathie Kendrick, Chairman, combined her report with her presentation of the Advisory and Strategic Planning Committee report.

Bylaws and Declaration: Tony Kendrick, Chairman, no report.

- Sue Frankowski asked if the Board could vote to move the General Membership Meeting to another date because of it being on Easter weekend. She mentioned that as long as there is 30-day’s notice, it could be changed.
- Tony Kendrick responded that the Bylaws do not allow the General Membership Meetings to occur on any other day than the 3rd Saturday in April and the 3rd Saturday in August. The Bylaws would need to be amended by the General Membership to give the Board authority to change the date of a General Membership Meeting. However, the Board can schedule a Special General Membership Meeting with at least 30-day’s notice.
- George Carter mentioned that the requirement to have a quorum to conduct business is the presence of at least 40 properties. To have the required meeting only one property owner has to show up – meeting the requirement to have a meeting the 3rd Saturday. However, no business could be conducted because there was not a quorum.

Communications: Tony Kendrick, Chairman, reported:

- The Spring Newsletter was issued.
- The President complimented Mr. Kendrick for the newsletters and the time spent on developing and editing them.

Parks and Pond: Steve Genua, Chairman, reported:

- The asphalt path will be sealed this spring.
- The first treatment for sago weeds was been applied.
- Two air diffusers are up and running and the third is being repaired.
- The contract with Evirotec is extended for two more years – and for the same amount as they charged in 2011.
- The harsh winter weather has caused erosion on one area of the pond and may undermine the walkway if it continues. Riprap will be put in place to halt the erosion.

Pools and Recreation: Eileen Furnari, Chairman, reported:

- The new furniture (cement tables) will be delivered soon. The plastic tables will no longer be repaired if they break. More cement tables will be purchased over time. Because tanning and sunscreen products are staining the lounges, only blue ones will be ordered in the future.
- The restrooms at Pool #2 (by the Office) are going to be refurbished.
- The pool hours have changed – both will open at 10am, and the Office Pool will close at 6pm and the Oyster Pool will close at 7pm.
- The roof on the Oyster Pool House will be a 7-12 pitch and covered with blue metal.
- There will be no smoking at the pools this year. Smokers will need to go outside the gate to smoke.

Motion: Barbara Rayner Seconded: Kim Schulz-Goss	No smoking allowed at the pools within the fenced area.	Passed
Voted in Favor: 10	George Carter, Monica Cofiell, Eileen Furnari, Linda Herzberg, Tony Kendrick, Mary Jane Maxwell, Barbara Rayner, Kim Schulz-Goss, Tom Seibold, John Shifflett	
Abstained: 0		
Voted Against: 1	Sue Frankowski	

DISCUSSION:

- “No Smoking” includes all smoking paraphernalia such as electronic cigarettes, vapor cigarettes, cigars, pipes, etc.
- The President called for the vote. Passed.

Nominating: Alin Springer, Chairman. Tony Kendrick, Co-Chairman.

- Candidates are needed to step forward.
- There are five director vacancies and the Vice-President and Treasurer.
- There are fewer Board meetings and you can call-in for meetings.

Teller: *(vacant)*

New Business:

- Bocce Ball Court: Until the community demonstrates, further interest by establishing a committee it is not of sufficient interest for the Board to address. An article in the last newsletter explained that community-wide interest is not evident.

Closing Comments:

- The “First Saturday” Community Yard Sales begin June 7th.
- There is no Board meeting in May.
- The next Board meeting is June 14, 2014.

Adjournment:

Motion: Barbara Rayner Seconded: Kim Schulz-Goss	Adjourn	Passed
Voted in Favor: 11	George Carter, Monica Cofiell, Sue Frankowski, Eileen Furnari, Linda Herzberg, Tony Kendrick, Mary Jane Maxwell, Barbara Rayner, Kim Schulz-Goss, Tom Seibold, John Shifflett	
Abstained: 0		
Voted Against: 0		

DISCUSSION: The President called for the vote. Passed.

The meeting adjourned at 10:40 a.m.

Submitted By:
Tony Kendrick, MBCA Secretary

Law Offices
AYRES, JENKINS, GORDY & ALMAND, P.A.

6200 COASTAL HIGHWAY, SUITE 200
OCEAN CITY, MARYLAND 21842

(410) 723-1400

FAX (410) 723-1861

E-mail address: jalmand@ajgalaw.com

GUY R. AYRES III
M. DEAN JENKINS
JAMES W. ALMAND
WILLIAM E. ESHAM, III
MARK SPENCER CROPPER
BRUCE F. BRIGHT
HEATHER E. STANSBURY
KEVIN P. GREGORY

OCEAN PINES OFFICE
11047 RACETRACK ROAD
BERLIN, MARYLAND 21811
(410) 641-5033
FAX (410) 641-6926

Reply to Ocean City Office

OF COUNSEL
HAROLD B. GORDY, JR.

March 6, 2014

VIA EMAIL: [REDACTED]

Montego Bay Civic Association, Inc.
ATTN: Barbara Reniak
101 W. 130th Street
Ocean City, MD 21842

Re: Amended Declaration of
Restrictions

Dear Barbara:

You have requested a legal opinion on whether the votes received after February 8, 2014 may be counted to allow passage of the Amended Declaration of Restrictions.

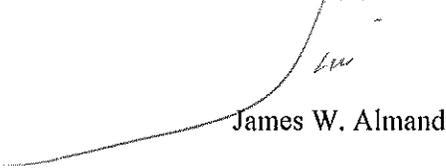
It is my understanding that the Board followed the correct process for notifying lot owners of and soliciting votes for approval of the Amended Declaration; however, the Board required all votes to be returned by February 8, 2014. A significant number of votes were received soon after February 8, and those votes put approval over the 50% requirement.

Nothing in the current Declaration of Restrictions requires a vote to amend the Declaration to be obtained within a set period of time. Therefore, the Board did not have to set a deadline, and, given the importance of the vote, the difficulty of getting lot owners to respond, and the unusually harsh winter throughout the country, the Board should not have imposed such a stringent deadline for responses.

In my opinion, the Board could vote to extend the deadline and count all of the votes received by that deadline.

Best wishes.

Very truly yours,



James W. Almand

JWA:dfc



Montego Bay Civic Association

District 10; Map 0117; Parcel 8020A; City Code 010

BOARD OF DIRECTORS

Operational, Administrative, and Procedures **MANUAL**

August 11, 2012

PURPOSE: This Board of Director's Operational, Administrative, and Procedures Manual (hereinafter referred to as the Director's Manual or Manual) is initially established by the 2011-2013 Board of Directors, to define the procedures the Board will take to carry out the duties and responsibilities required by the MBCA Declaration of Restrictions, the MBCA Bylaws, and the MBCA Articles of Incorporation. This manual is also to serve as a guideline and documents the requirements for the day-to-day operations of the Montego Bay Civic Association (MBCA), Inc.

ADMINISTRATIVE PROCEDURES

Fees, Fines, Penalties, and Appeals

(Presented and approved by vote of the Board of Directors on April 12, 2014)

FINES, FEES, AND PENALTIES FOR VIOLATIONS OF THE RESTRICTIVE COVENANTS

1. Violation fines, fees, penalties, and appeals: As authorized by Section 6a of the Declaration of Restrictions, the Board imposes fines, including late fees, for violations of the restrictive covenants as follows:
 - a. A penalty of \$75.00 will applied to the owners account if, within a deadline date (no earlier than 15 calendar days from the date of the violation letter) the violating owner has not taken reasonable steps towards the removal or termination of the violation. If the violation continues past the deadline, a penalty of \$75 per day will commence until, as specified in Section 6b, the delinquent account is referred to the Association Attorney for collection.
 - b. In addition, if the violation is not structural in nature, the MBCA, through its agents and employees, shall have the right to enter upon a lot to take such steps, as it deems necessary to extinguish such violation and all the costs thereof, including the \$75 violation notification fee, shall be an additional assessment on the lot.
 - c. A violation of Section 4b of the Declaration of Restrictions (to keep the lot in a neat, well-maintained, and attractive condition) is evidence of failing to monitor the

condition of the lot with such frequency that the condition deteriorates and comes to the attention of the Association.

- i. After the lot owner has received one violation notification for not monitoring and maintaining their property, any repeat failures to monitor and maintain the lot will result in an automatic violation of Section 4b notification \$75.00 penalty.
 - ii. Owners are responsible to avoid receiving a violation letter by monitoring and maintaining their property in a neat, well-maintained, and attractive condition.
 - iii. The Association is not authorized to serve or provide property management services for individual lots.
 - iv. A violation notification letter is not a warning letter; it is a penalty letter.
- d. Lot owners wishing to appeal the assessment of a fine for violations of Section 4b may do so in writing to the Association within 30 calendar days of the deadline to take corrective action(s) stated in the violation letter. An owner may also address the Board at a regularly scheduled Board meeting by requesting to be placed on the agenda.

