

**JBMI Board Meeting**  
6:30 pm -- June 21, 2011  
Jantzen Beach Super Center

Officers Present: Chuck Hindenburg, Margaret Puckette, Berni Pilip, Ginny Girotti-Sorem

Directors Present: Bruce Broussard, Leonard Myers, Jerry Pekrul, Ron Schmidt, Sher Shepps, Sherre Vanegas.

Moorage Management: Pam Pariseau

Certificate Holders in Attendance: 1555, 1623, 1623, 1625, 1627,1641, 1695, 1715, 1717, 1741, 1749, 1753, 1817, 1855, 1871, 1883, 1903, 1975, 1987, 1991, 1995, 1999, 2007, 2015, 2035, 2045

The president, Chuck Hindenburg, called the meeting to order at 6:33 pm

The board introduced themselves.

Chuck started out talking about the BOLI charges. Ron Schmidt noted that we had not contacted our insurance company. Chuck thanked him for catching this.

Chuck explained that these charges need to be taken seriously by every single one of you and that we are all affected whether we are on the board or not. Everyone needs to recognize the seriousness of these charges and that anything we say or do may create a liability for JBMI or you personally. It does not matter if you are an owner or a renter. All of us are responsible for our guests. JBMI will not tolerate any retaliation against BOLI complainants or witnesses who come forward with information. If anyone has relevant information, please contact Mr. Andrew Schpak, our insurance attorney.

Ron Schmidt said we have a directors' liability EPL (employment practices liability) clause in our insurance. Liability policies like this give us two things: defense costs and settlement provisions if we are at fault. While we have our own general attorneys, the insurance company has choice in attorneys. Andrew Schpak is the insurance company's choice. The insurance company will be paying him subject to a retention amount on the policy that we pay. If we are wrong, our insurance will cover. Governmental fines and wage disputes are not covered by EPL insurance. Some is covered and some is not.

Ron introduced Andrew Schpak who practices labor law with Barron Liebman, an Employment and Labor Law Firm. Mr. Schpak gave an overview of BOLI process—the employer gets notified a complaint has been filed, the employer writes a response, and typically interviews are conducted. BOLI investigator will make determination of whether there is discrimination. A letter is sent to claimant. BOLI is a prerequisite of certain types of claims in a lawsuit. Claimant can decide whether to go to trial. To some degree, the insurance company might want to settle regardless of whether the employer wants to. Andrew is working with Greg Coxey our general attorney to gather information.

Andrew Schpak's email address:  
aschpak@barran.com

At this point, Information is being gathered so no questions can be answered yet. More information is to come. Ron said many clients become upset when insurance company settles because they say it is a matter of principle. To the insurance company, it is a matter of economics.

**Secretary's Report**

Bruce Broussard moved to approve minutes as corrected, Sherre Vanegas seconded, and they were unanimously approved as corrected.

## **New Business**

There was a question about the timeline for the BOLI report. Another question was asked whether we have responded within the 14 days. Attorney said we had responded within the time frame. BOLI Woods complaint was filed sometime in January-February, and the Harrison complaint was May 7, 2011.

Jay McCauley said that a great thing happened to him. He had seriously health issues the previous year. Chuck and Leonard showed up one weekend with lumber, tools, donuts, etc. and replaced his whole deck with a comment that it was "Be kind to a neighbor" day. Reminded him of why he moved here, to get away, control of his own destiny, etc. We are a neighborhood and are a community. He wants to thank them again. By-laws and CCRs don't cover every situation. Sometimes kindness is the best management tool we have.

## **Landscape Committee**

The Landscape Committee was given the opportunity to obtain proposals from landscape maintenance vendors. They received proposals from three companies. Pacific Landscape Management suits JBMI best. Sher Shepps appreciates the exclusions being described and thinks the proposal is well presented. Jerry Pekrul mentioned that there was a whole lot of stuff that wasn't being covered. Ron Schmidt sees a conflict with leaves. Will the parking lot leaves be cleaned up? Parking lot leaves needs to be spelled out more definitively.

The company will use environmentally safe products. The Landscape Committee has specialty gardening experience over the years and has spent a lot of time on this. The Landscape Committee will continue with special projects. The proposal is to have a 12 month contract and then a review.

Leonard Myers moved to accept the proposal for a period of 12 months, at which time the board will review and determine whether to renew. Sher Shepps seconded. Bruce Broussard wanted them to do initial site cleanup first. This company takes care of the Newport Restaurant site. Landscape budget is \$7,300. Myers suggested taking some of the cell tower income to pay for it since it is more than is in the budget. Ron asked whether we were spending an equivalent amount already, why aren't our people doing it, and if we spend this amount of money, where are we taking it from in the budget, and that he hopes it's not from payroll. Alex says our maintenance people have saved thousands of dollars on various projects over the past several years. There was a question about barkdust, and it was noted that a lot of preparation has to be made for either barkdust or compost applications.

The vote was called: Shepps, Pekrul, Broussard, Myers, and Vanegas voted for the proposal; Ron Schmidt abstained. The motion passed *to accept the Pacific Landscape Management proposal for a period of 12 months, at which time the board will review and determine whether to renew*

## **Unfinished Business**

(Should have been under new business) Mike Frost brought up an issue of the east gate area which has been painted. Some years ago the Architectural Committee instituted a color scheme for the moorage. Although the new paint looks wonderful, the color scheme does not adhere to the color scheme currently in place. The Architectural Committee has been asked to look into this and it might want to amend our colors, or not.

## Special Assessments.

The board has all received the recommendations on special assessments from the attorney. Information from attorney went out to board several weeks ago. Leonard moved to accept lawyer's recommendation from Greg Coxey at Vial Fotheringham. Several of the board members did not recall the specific communication from the lawyer. Chuck was going to call up the documentation from his computer and the meeting would continue with the Columbia Crossings issue.

## Columbia Crossings

Ginny Sorem, Pam Pariseau, Sharon Rixen, and Sherre Vanegas worked on some of the outstanding bills with Columbia Crossings. They had to refer to our attorneys. As of yesterday, June 20, JBMI had received just short of

\$9,000. There is still an huge amount outstanding from past stormwater fees, but it will come down to items regarding property lines, etc. It's still a work in progress. The outstanding balance is probably close to \$20,000.

**(NOTE: JBMI has 30% undivided ownership with Columbia Crossings in N Jantzen Ave but is obligated to pay 50% of the maintenance costs related to the street.)**

Chuck asked Margaret Puckette to take over the meeting while he was getting the information on the assessments issue. Someone asked if there was any progress in the paint striping on Jantzen Avenue. Sherre Vanegas said that was one of the issues. Columbia Crossings is responsible for the maintenance of Jantzen Avenue, and JBMI is to pay 50% of the maintenance costs. Somebody asked whether we had 50% in liability if autos crash. Pam said she called three or four weeks ago and asked about the striping, and the manager of Columbia Crossings left a message after hours that they were working on it, and yes, they were going to do it, hopefully in two weeks. However, that was three or four weeks ago. The big debate was who was responsible for paying for the project.

Someone asked whether we had told him we knew we were responsible for 50%. Pam said it was all in the contract and they usually bill us. It was suggested that perhaps we communicate to them that we realize that 50% is JBMI responsibility in case they have new people working up there. Someone suggested that we send a CYA letter to them that we notice the street needs work and have the funds to cover our 50%. Pam says she knows that they have received bids about six weeks ago. Pam said she could write a letter to them.

Ron Schmidt said the neighborhood association HINOON is concerned about the striping. Columbia Crossings has put up signs by Safeway saying it is a private road and to drive at your own risk. It was suggested that perhaps, in the letter to Columbia Crossings, that a similar sign be put on Jantzen Avenue.

Sherre said they were still working with the Portland Water Bureau to find out how the stormwater fees charged to JBMI by Columbia Crossings were calculated for Jantzen Avenue.

Return to [Special Assessments](#)

Chuck read the letter from the attorney at Vial Fotheringham

Charles,

I have reviewed the documents you sent me. From what I understand, the manager was given authority at some point to decide to levy the special assessments on individual accounts. However, Article IX, Section 4 of the Bylaws makes it clear that it is up to the Board to decide to levy the special assessments. I think we have a bigger issue here and that is how the Board has actually been handling the special assessments.

As you know the Board of Directors has a fiduciary duty to act in the best interest of the Association. Part of that duty is making sure that everyone is treated fairly and the rules and restrictions are enforced uniformly against the owners. I am of the opinion that the Board cannot delegate the final decision to levy a special assessment to a manager. Further, I am concerned that even though JBMI is not required under the Bylaws to give an owner an opportunity for a hearing before the fine is levied, it would be good business practice to do so.

While JBMI does not fall under the Oregon Planned Community Act, the OPCA does provide good direction as to how fines should be administered. My recommendation would be to implement an enforcement resolution that will be followed in every instance where there is a violation and an owner faces a special assessment. The enforcement resolution will address how a complaint is received, how

notice is given, and what steps an owner has to take to be heard before the Board. This way there will be a procedure in place that will protect both the Board and the violating owner.

I would recommend that the Board discuss the procedural aspect of enforcement before we turn our attention to the actual rules and fines. I anticipate the cost to draft the enforcement resolution to be around \$750. Let me know if you have any follow up questions to this. Thanks.

Sincerely,

Greg

Sherre Vanegas had asked Chuck to submit a third document to the attorney which he did. Chuck will forward the attorney letter out again to board members.

Some board members were confused. Margaret thought that they would be discussing special assessments, not just the recommendation for a procedure for special assessments. It says that the board doesn't delegate to the manager and she said the Board has never delegated special assessments to the manager and the last board didn't either.

Chuck read an email to attorney, as requested by Jerry Pekrul at the last meeting, asking him to review the two special assessments.

May 20

To: Greg Coxey:

Cc: Megan

We have two special assessments that we ask for your guidance on. We want you to rewrite them so that they are truly legal. See attached copy of 1998 special assessments. It is the only known and approved copy of assessments. See attached copy of 2011 write up done six months ago and only recently approved with the exceptions of two items. Page 2 under miscellaneous, Rule 1 and 2. These are the two items that we would like you to go over and rewrite to make them legal and provide for due process. It would be great to have them back next week.

Chuck then said that Sherre had sent him a third document which he sent to Coxey. Sherre said she was hoping it was the Complaint Procedure, but it sounds like Coxey didn't have the Complaint process. The Complaint Procedure is on the web site, and Chuck said it specifically says that "the manager will ... " Sherre said he didn't need to bring up the Complaint Process from the website. Chuck said that's what the lawyer reviewed and herein lies the problem.

Chuck said that the attorney, without changing our assessment fees schedule, wants to give us a structure that follows our By-Laws, provides for due process and doesn't change any of the fees or anything we may want to add or subtract in the future. It's strictly procedural to keep us within legal good neighbor guidelines. Margaret asked, then, that the motion on the floor, is only accepting his recommendation of having a procedure in place? The motion was stated to accept Mr. Coxey's recommendation. Attorney is concerned about the administrating, tracking, and recording of special assessments. Motion is for attorney to create procedure that can't be shot down later. Margaret said that we already have procedures. Motion means that we spend \$750 to let him write up his recommendation of how we change the wording of the administration and record keeping. Sherre Vanegas said so it was the "Complaint Policy" and Chuck said no, but that he may not be effectively communicating this. What we decide is the assessment schedule, procedure of warning, letters, etc. Lawyer is concerned about administration and tracking.

Margaret Puckette said we have these policies. Someone asked what has brought this to the forefront. Margaret said it was because some of those who have been assessed are disputing the assessment. Somebody said so board members don't pay fines? Jerry Pekrul said that what you are clearly talking about is due process, and that's been going on since 1998. We have all these rules and regulations in place. We visited it in 2006 and it's still going on. Margaret says we have files, we have written complaint, there are follow up letters, etc. Every board packet has had lists of complaints filed, who received letters, who was assessed, etc., so what the motion is about is to pay \$750 to the attorney to somehow put it in our By-Laws...Chuck interjected with, "not in our By-Laws. He is not changing our By-Laws." It's a procedure to do what you want to do without having someone shoot it down later.

Jerry said it basically we are going to pay \$750 for some else's take on what we have been doing for ten years. If he were an attorney, he'd rewrite anything for money. Why redo it?

Someone said it appeared to the attorney that the manager was making special assessments. There is some confusion about the wording "moorage management" in the Complaint Process. Someone asked how much we have already paid to the attorney on this issue. Pam hasn't seen a new bill. Margaret said that the two special assessments that were put on hold were made with the majority of the board, four out six. It was not a moorage manager's decision. Sher Shepps said all of them have been put on hold and that theirs (Shepps') have been put on hold. Chuck said that's because there is no due process. Margaret said that they don't want to pay the assessments.

Chuck said that he might have to put this on hold.

Margaret said that there was a motion on the floor and she wants to call the question. Someone asked who seconded, and then Bruce seconded the motion.

Chuck has dug up the email sent to lawyer, he has read his response, and forwarded his response. The Complaint Policy item on website, called the "Plan of Action", says following contact with complainant, the moorage management shall decide and log how the complaint will be resolved. This is what Mr. Coxe is referring to and he will help us with it. It is Chuck's understanding that at one time in the past, one director at a time would go over the complaints. This is what he has been told. Someone asked whether the 2006 policy (Complaint Policy) had been checked out by a lawyer. It had not been; it was written in house by Board volunteers.

Margaret said that what is on agenda is not what we are discussing. Margaret said that what is stated on the agenda is that we would be voting on reinstating well established special assessments. She wants to know about truth in advertising. Sher agreed that what is on the agenda is not what we are talking about. Chuck disagreed and said what he put on the agenda was what he was directed to send to the attorney about the Harassment and Obnoxious behavior rules. The attorney can wordsmith these, but the bigger issue, according to the attorney, is the way the policy appears to be administered and tracked. The attorney wants to make sure we are administering and tracking per our policy guidelines.

Discussion on the floor is covering too many issues. Things are too confused. Sherre Vanegas said Chuck has mixed two issues. Sherre said he sent the complaint policy for review, two versions of the special assessments and the two rules not included in the Special Assessments. Sherre asked whether we are asking the lawyer to review our "complaint policy", special assessments, or the two rules on Harassment and Obnoxious Behavior. Sherre said she thought the attorney was going to clean up the verbiage on Harassment and Obnoxious Behavior. Chuck responded that it was very clear what his questions to the lawyer were. For \$750 the attorney will do all the three.

Someone said that there two issues. One is that two assessments are not being dealt with, she can feel the rumble here and there. The other issue is to codify the policy. She feels that it is almost a dodge of the issue.

Margaret said there was a motion on the floor.

Chuck moved to table until clarification from lawyer. It was pointed out that there was already a motion on the floor. Leonard withdrew motion. Chuck asked for gavel back. Yelling and chaos ensued.

A three minute recess was called.

Meeting was called back to order. Chuck will get more information from the attorney. Sherre asked whether Chuck would be getting more information out to them and that they weren't just tabling the issue. Sher asked whether every assessment was still on hold. Chuck said no, that the board voted in all the other assessments except those two. Sherre said that it was her understanding that there were other complaints falling under Harassment and Obnoxious Behavior that were still on hold. This is the category of Sher's complaint so it is on hold. This is causing confusion. Someone said that many of the complaints weren't being addressed.

#### 1623 Tony Plescia

Tony Plescia, property manager (Jeff-absent) and Kyle Spanski, the tenant was also present. Tony Plescia & LLC bought 1623 and has restored/remodeled it. Their intention had been to remodel and sell, but it's become difficult with the uncertainty with the Columbia River Crossings project of the I-5 bridge. They have rented the property previously and tenants have never been a burden. Mr. Spanski has been a good neighbor. They are asking for an exception for eviction because he failed the tenant screening because of a felony assaults conviction seven year ago. . He has been off probation for 4 year. Jerry asked Tony if he followed the JBMI procedures when he moved Barbara (the last tenant) in and Tony replied that he followed them as he understood them. Jerry asked whether he a tenant screening when he moved Barbara in and he said no. Jerry said Tony has ignored JBMI By Laws. Our policy states we can not accept people who have felony records against people. Jerry said that Tony is the problem not Kyle.

One person has mixed feelings. Rick asked if we made an exception in the past. Nobody thought that exceptions have been made in the past. If we make an exception, we would be setting a precedence. There was much support for Kyle Spanski from the audience. Jerry said there are two issues, the landlord and the tenant.

Sher agreed with Jerry that there were two issues—the landlord and the tenant. She was very concerned that we have an owner who has violated the CCRs twice.

Someone asked if they owner could be fined. According to attorney, Tony can be fined \$250 a month until tenant leaves. Jerry moved that Tony be assessed \$250 and that tenants are allowed to stay in 1623 as a one time exception to screening policy in Rules and Regulations which refer to the Tenant screening policy. The screening document says that "there shall be some latitude" in the tenant policy. Bruce Broussard seconded. Leonard wondered whether we were going to have a problem in that we have refused tenancy to others in the past and that decisions like this were generally made in an executive session. The Rules and Regulations refer to the Tenant Screening process not the By-Laws or CCRs.

For clarification, Ron said that we had to go to our attorney because Tony threatened suing. Our attorney on May 16 said that if tenant hadn't vacated within seven days there would be a \$250 fine.

Jerry amended motion that fines cover our legal fees in addition to the \$250 and tenants allowed to stay as a one time exception. Tony responded that he did not know where the legal threat came from. Pam said that Tony came in and asked for By Laws and said he would not move Kyle out. He said he was working with an attorney to have the record expunged. Pam said she wrote Mr. Plescia a letter saying he would have to have Kyle move out, and Tony said he would consult an attorney. At that point, Pam consulted our attorney to see what recourse we had. We have not been billed for this yet.

Jerry moved to amend his motion to include attorney fees. Amendment to motion passed unanimously.

Chuck asked for a call for the question.

Jerry Pekrul and Bruce Broussard voted for the motion. Sher Shepps, Ron Schmidt, Leonard Myers and Sherre Vanegas abstained. Jerry moved to move it to exec session. Bruce seconded. All six voted to move to exec session. Questions were asked about whether the fines would continue.

Somebody felt appalled as a human being. What society has this regulation that somewhere down the line some "felon" might hurt some one? What about us in this moorage? We are all hurting people and we're not felons. She thought exec sessions were a cop out. She wants to know who votes for what.

Chuck took a straw poll in audience to see how many would like to see a one time exception. There were about 14. Three were three people against.

Ron said that the attorney pointed out that you need a quorum for a meeting, but only a majority in the vote. Two voted for and none against so motion passes to make a *one time exception to allow tenant to stay in 1623 and landlord Tony Plescia will be assessed a \$250 fine and will cover the JBMI legal fees.*

Sher Shepps pointed out that she abstained because we were treating Tony too lightly and thought that the fine wasn't high enough.

#### **Manger's Report and Treasurer's Report**

Ron moved to accept manager's report and treasurer report. Bruce seconded. Passed unanimously. Pam will send board info about special projects that need approved.

#### **New Business**

##### New manager's report.

They have reviewed over 90 resumes. There will be 3 to 4 finalists for board to interview. Cheryl asked for a meeting to discuss why we chose who we chose, and to get advice on whether the number of candidates was sufficient.

##### Pump Station

Pam brought out the pump situation. We're running on only one pump.

Chuck recognized the work of the Landscape Committee and the Human Resource Committee.

Leonard commented on the great job Pam has done.

AT 9:07 PM the board went into executive session.

Respectfully Submitted,



Berni Pilip  
Secretary