

**COSTA DEL MAR**  
San Carlos, Sonora, Mexico  
**Homeowners Association**  
**Meeting Minutes**  
**Saturday, October 22, 2011**  
**Location: CDM Clubhouse**

**Board Officers in attendance:**

Scott Elliott – President  
Dave Merrill – Treasurer  
Diane Cimetta – Board Secretary  
Juanito Wisner – Vice President

**Absent:**

Ariel Obregon – Director Governmental  
and Legal Affairs

**Interpreter:** Myriam De La Torre

***Sign In***

Sign-in began at 9:00 a.m.

***Called To Order***

The meeting was called to order at 9:30 a.m. As there was not a first call quorum, the meeting adjourned and the second call at 9:45 a.m. represented 69.3% of the Owners. All business at the meeting was conducted in English. Spanish translation for those needing it was done by Myriam with assistance from Juanito Wisner.

Scott thanked everyone for attending and announced that we have now gone to an annual meeting, which should make it easier for homeowners to attend just one meeting per year. We will now meet on the 3<sup>rd</sup> Saturday in October so that there won't be conflicts with peoples Halloween plans or whatever. Our next meeting will be held on Saturday, October 20, 2012, and from here on out the annual meeting will always be on the 3<sup>rd</sup> Saturday in October so everyone can plan accordingly.

***Announcements***

- Thanks to Tony and Diane Cimetta for providing hot dogs and hamburgers for potluck last night.
- Thanks to Bruce and Maggie Candland for volunteering to be on the Election Committee today.
- We want to welcome new lot owners to the community:
  - Lot #12 - Hector Duron, Sr
  - Lot # 15 is in the process of being bought – don't have new owners' names
  - Lot # 31 - Etienne Lambert and Ligia Duenas
  - Lot # 52 - Ron and Julie Young, Colleen Truax
  - Lot #114 – Wade and Judy Earl
- The beach barriers are now legal and should keep our beach safe. It will keep quads and vehicles off the beach to keep our children safe.

- At our last meeting we passed Motion 110410 which allowed us to remove some of the penalties of homeowners who were very behind in their assessments. This proved to be very successful and allowed us to collect \$290K pesos as well as the fact that many homeowners caught up on their assessments.
- Our lawyer will be here at some point in the meeting to answer questions and tell us where we are in regards to legal situation with Playa Blanca and the city of Guaymas and the water drainage problems. He will also fill us in on progress of lot owners who are grossly behind in assessments and our plans to move against them legally. This also includes Lot #132, for whom we cleared his lot and built a sea wall. He has stopped making payments and we are moving forward to place a lien on the property. Our lawyer has also come to the conclusion that we can legally lock people out at the gate. We cannot deny pedestrian access but we can lock them out from driving into the community and using the common areas. We have also had challenges with people in arrears renting out their homes, making money on them and still not paying their assessments. We will retrain the guards not to admit them and we will be implementing rental rules and regulations.
- Martin, one of our guards, is very ill and is home convalescing.

### ***Treasurer's Report***

#### Procedures in the office:

- No cash will be accepted in the office. Also, do not leave an envelope with the guards with cash in them to pay dues, utility bills, etc.
- Bookkeeping has been simplified. Individual account statements will be sent out. Please pay on the unpaid balance.
- Receipt numbers are now listed in the database
- Receipt date is the date of the Banamex deposit. That makes it easier for our accountant, Lupita, to verify the records. Receipt date is also in the database.
- Databases are reconciled daily and monthly with Banamex statements.
- Separation of responsibility, Myriam writes checks, Dave does financial records.
- Lupita has instructions to notify the President and Treasurer if there are any discrepancies. She receives all receipts, bank statements, property tax statements and copies of all CDM financial records.

#### Privacy

- In order to protect homeowners' privacy, the CDM directory is encrypted and password protected. Diane (Pres), Dave (Treas) and Myriam (Administrator) are the only ones with access to this information.
- Financial information is confidential, however if someone would like to inspect the books, it is their right and they may do so in the office by appointment.

- Your email address is yours and you should specify whether or not you would like your email address shared.

Financial info and budget info was passed out and discussed. Approximately \$40,000 US in a reserve account. In the 20 year history of CDM there has never been a reserve account so we are fairly well prepared for long term maintenance items.

We have added money to the 2012 budget for a Pool Monitor. We need better protection for homeowners who would like to use the pool but have been unable to do so because of renters monopolizing the pool and bringing 15 to 20 people from one house up to the pool and using it from early morning until late at night. A pool monitor will assure that the pool will be mainly for the use of homeowners. We are about to spend a fair amount of money repairing our club house and pool area and want to be sure that the interests of the homeowners will be protected. The Pool Monitor will be a temporary employee probably hired through our maintenance company as a contract laborer. He will NOT be a lifeguard and it will be so posted along with pool rules.

*(Later on in the meeting a motion was passed to hire a Pool Monitor as well as giving the Board permission to work on and implement home rental rules and regulations.)*

The budget for 2012 was passed.

### ***Legal Information***

Myriam introduced our lawyer, Armando Saucedo, who has been assisting us in working with Playa Blanca, the city of Guaymas and ConAgua to try to resolve drainage problems that arose during hurricane Jimena and to find an equitable solution to the problems and damages caused by permits or lack of permits given to Playa Blanca that may have contributed to damages at CDM. They have already had 20+ meetings. The Federal Government (ConAgua) must have a study and master plan to review the problems. Our lawyer has already sent a letter requesting the study. Guaymas, Playa Blanca and CDM will share in the cost of the study. In the meantime we have reinforced and built a stronger perimeter wall, dug drainage ditches outside the wall to channel the water to the lagoon and we are fixing the front entrance to redirect the water so it doesn't rush through the gate as it did during Jimena.

There are approximately 10 homeowners who owe approximately 70% of outstanding assessments and our lawyer is looking into suing or whatever is legal in Mexico to collect the monies owed or to lien the properties. The lawyer's down payment was divided between the homeowners we are pursuing and his fees will come out of a 20% surcharge on what he is able to collect. Therefore he is very motivated to collect what is owed. Depending on the outcome of the collections of the first 10 homeowners, we will then move on to the next group of 10 in arrears. Our goal is to get as many people current as is possible.

Lot 132 was doing very well making payments but they have now stopped. The lawyer said it will be easier to collect from him as we have a signed document for the loan. After many attempts to collect the owner has told us that he cannot pay and for us to do whatever is legal to collect. Lot 132 currently owes a little over 300,000 pesos to the HOA and we are requesting payment.

Technically our By-Laws say that we need 75% of all homeowners to do some of the things and assessments that we have done. Our lawyer has said that because the assessments were voted on and approved by a majority, recorded in the minutes, the minutes were approved and legally filed, what

has been done is legal. Also, because 80% of the homeowners have paid their assessment, it affirms the legality of the assessments. If someone wants to contest this they must hire their own lawyer and sue the homeowners association (effectively sue their neighbors).

The lawyer also stated that according to Sonoran Law, Article 23, all resolutions approved by a simple majority of votes are legal.

A lien can be on a property for an undetermined period of time. We would have to go to court to force a sale. In the meantime an owner cannot sell or build on their property. A list of homeowners in arrears (Appendix A) is attached to these minutes and will be recorded along with the minutes. The lawyer suggested that all homeowners be notified if a property has been liened and will possibly be for sale.

The lawyer also reminded us that we need to be sure that all homeowners were made aware of the meeting. Scott said it has been posted on the website for a year, people were notified by email, there has been a notice posted at the gate for an extended period of time, non email users were sent notification by mail and a notice was placed in the Guaymas newspaper for a day. This is more notification than we have ever done.

### ***History of CDM By-Laws***

Ken Unrein gave a short history of our By –Laws:

In April of 2005-2006, Ken was on a committee that reviewed our by-laws. It was determined that we needed to change a few things. At our April 2006 meeting, Humberto Valdez (a resident of CDM) offered to help us register our by-laws. Apparently Llano (developer) never properly registered our by-laws so we were essentially operating without by-laws. The Board at that time thought we should hurry and register the by-laws but Mr. Valdez cautioned us to take our time because once registered, it would be almost impossible to change them. On June 17, 2006, we held a special meeting to review the changes to the by-laws and approved the changes. At the October 28, 2006 meeting we had some more input from residents. On October 30, 2006 we submitted our revised by-laws to the state of Sonora. The state approved the by-laws on December 7, 2006, they were officially published so they are now legal and in force.

Scott pointed out that when we had our by-laws approved there was no hurricane Jimena so the assessments we imposed for repairs though maybe not technically legal needed to be done and they were legally voted upon.

### ***Club House and Gate House Review***

Gate house was completed because Scott Elliott and Frank Westerbeke advanced money to the association to begin construction. The gate house was built on time and on budget but it was built when the peso was 10 to 1. It is now 14 to 1 several years later and we have collected 80% but prices on materials have gone up so we now need to see what we can do with the money we have. We still have 200,000 pesos that have not been collected for the club house so we have approximately a little over 700,000 pesos instead of 900,000 pesos available to us which is about \$50,00 US.

In discussions with homeowners the following are things that seem to be high on their list of needs and wants:

New bathrooms  
New steps and a more accessible handicap ramp  
Shower (already in the works)  
A wall around the club house and pool  
Smooth coat the office and club house to match the guard house  
Cement the club house floor so that it is one solid, even surface  
Pads for commercial quality picnic tables to be bolted down

Once all of the above has been done, along with new wiring and new plumbing, we will have spent the \$50,000 US. That is all we are able to do at this time.

We need to give the new board some latitude to make some rules on pool use as well as implementing rules for rentals. Perhaps numbers of renters allowed to use the pool and numbers of people allowed in a rental house needs to be explored. We will also need to retrain the guards to be more vigilant in whom they allow into the community. We might also explore the use of stickers for residents to put on their cars for easier visibility for the guards.

### ***Voting***

Resolution 111001 – Late fees assessed on unpaid balances of more than 700 pesos

78.7% Yes – 21.3% No

Motion 111002 – Approve October 23, 2010 HOA Meeting Minutes

78.2% Yes – 21.8% No

Motion 111003 – Approve April 12, 2011 HOA Meeting Minutes

78.2% Yes – 21.8% No

Motion 111004 – Approve 2012 budget of \$1,802,000 pesos

97.5% Yes – 2.5% No

Motion 111005 – Approve Treasurer’s and Board’s decision to remove penalties for a few owners (extension granted)

78.2% Yes – 21.8% No

Motion 111006 – Deny vehicle access to owners more than \$10,000 pesos arrears on their lot

97.7% Yes – 2.3% No

Motion 111007 – Construction on homes can only be done Monday through Friday – No weekend Construction (can work 1 extra hour Monday – Friday to compensate)

94.9% Yes – 5.1% No

Motion 111008 – CDM Board to develop rules and regulations on rentals and pool use

98.8% Yes – 1.2% No

Motion 111009 – It is agreed that the meeting secretary certifies and states that the quorum for this Meeting and the agreements taken in this assembly are considered taken on second call, as stated in the meeting notification

100% Yes - 0% No

Motion 111010 – The association is requested to, prior owners debt certification, attach the list as an exhibit of the minutes of the meeting and be part of it, in order to legally Demand its payment

100% Yes – 0% No

Motion 111011 – It approves the Association to attach to this meeting minutes the debt of lot #132 And it is approved to proceed legally against the owner

100% Yes – 0% No

Motion 111012 – Nominees for the CDM Board of Directors must be current with their assessments  
Majority vote

Motion 111013 – Provide the 6 quarter penalty amnesty for lot #44 (owner is not on email  
Distribution and did not know about Motion 110410) Owner must pay all  
Assessments within 30 days  
Majority vote

***Election of Officers***

President – Diane Cimetta – unanimous  
Vice President – Karleen Leonard – unanimous  
Secretary – Norene Sullivan – unanimous  
Treasurer – Dave Merrill – 77.5%  
Carl Hillestad – 22.5%

***New Business***

In answer to residents request the Board has decided that combination locks will be put on all gates and everyone can have the combination.

***Old Business***

None

***Adjournment***

The meeting was adjourned at 12:30 p.m.

**Next Homeowners Association Meeting: Saturday, October 20, 2012, at 9:30 a.m., Clubhouse.**

Respectfully submitted,

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Diane M. Cimetta

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Scott Elliott

## APPENDIX A

The following CDM owners owe CDM \$10,000 pesos or more in Assessments.

Salazar,	Lot 18	12,592.30	10/20/10	1
Walford,	Lot 53	15,712.64	05/31/10	2
Martinez,	Lot 46	16,119.24	07/08/11	3
Hillestad,	Lot 21	18,843.52	08/12/11	4
Velez,	Lot 13	29,806.01	04/08/11	5
Velez,	Lot 91	33,245.57	04/08/11	6
Ocampo,	Lot 96	39,754.69	08/16/11	7
Lindholm,	Lot 20	40,424.21	04/01/09	8
Miller,	Lot 58	40,594.95	10/14/10	9
Galindo,	Lot 108	42,161.04	07/29/11	10
Salazar,	Lot 17	44,318.64	12/27/10	11
Arias,	Lot 66	52,809.27	09/28/11	12
Moreno,	Lot 110	43,465.28	12/05/11	13
Pulido,	Lot 93	57,011.97	04/22/09	14
Vazquez,	Lot 14	57,474.97	12/14/09	15
Arias,	Lot 64	58,718.14	09/28/11	16
Pulido,	Lot 95	58,983.04	04/22/09	17
Camou	Lot 106	62,988.75	04/07/10	18
Arias,	Lot 70	65,090.72	11/30/11	19
Arias,	Lot 68	65,950.24	11/30/11	20
Miller,	Lot 105	67,182.82	04/28/09	21
Pulido,	Lot 97	67,523.51	04/22/09	22
Huerta,	Lot 107	72,988.18	08/19/09	23
Coronado,	Lot 65	83,158.01	05/26/08	24
Coronado,	Lot 63	92,858.21	05/26/08	25
Chacon,	Lot 86	93,588.35	07/10/09	26
Herrmann,	Lot 111	93,664.53	10/14/08	27
Moreno	Lot 109	100,146.53	03/23/09	28
Rubin,	Lot 99	110,893.09	11/14/08	29
Carter,	Lot 48	112,444.97	06/09/09	30
Romero,	Lot 126	131,869.68		31
Gonzalez,	Lot 69	158,271.19	01/01/07	32
Turner,	Lot 132	369,013.25	04/20/11	33

**Total      2,409,667.51**

A payment was made and the deposit is at the bank or in the mail

Has an agreement with Myriam