

MINUTES OF THE MONTHLY MEETING
SMPOA BOARD OF DIRECTORS
January 4, 2012

1. The Meeting was called to order at 7:45 p.m. by Natasha Roit. It was held at 18432 Wakecrest, Malibu, CA 90265.
2. A quorum of Directors was present: Barbara Belcher, Steve Carcano, Ann Mohr, Craig Mohr, Becky Rickley, Natasha Roit, and Paul Rudzinski.
3. Directors absent: Helen Tartavull. On January 3, 2012 Art Peter submitted his resignation by email.
4. Owners present: (List includes people who signed attendance sheet and others who acknowledged their presence.) Shyam and Kalyani Amiadi, Miriam Bauer, Glen Beer, Linda Birke, Roger Bollinger, Colleen O'Beirne Brydon, Vickie and Michael Cohen, Bill Davis, Dave Dealey, Jim Dyer, Ruth Erb, Marika Erdely, Nilo and Amir Falamaki, Jill Farwell, Kathy Feig, Lisa Ferns, A. Ferrano, Lyn Freeman, Laura Gianni, Cecile and Roy Gifford, David and Donna Gold, Theresa Gormly, Mazen Habiby, Barry and Fay Herzog, Peter Heiman, Marc Jackson, Jackie and Ray Lahr, Robert Levine, Susan and Mike Lowenstam, George and Anne Mallouk, Rusty and Joan MacLaughlin, Spencer McCoy, Amir Mostafavi, John Peed, Katherine and William Price, Nancy Posner, Roxanne Rankin, Mimi Rose, Gary Salenger, Marta Samulon, June Sebree, Andrew Shayne, Russell Shubin, Sheila Silber, Cary and Robin Spencer, Jean Stuart, David Taub, Linda and Robert Wessen, and Alex Yang.
5. Others present: Steve Morris, attorney for Andrew Shayne.
6. Roit announced that a telephonic Special Meeting of the then-current Board had been held on December 30, 2011 at which Barbara Belcher, Ann Mohr, Craig Mohr, Art Peter, Becky Rickley, and Natasha Roit were appointed to serve as Directors. Norman Dupont, Barbara Hatterm, Peter Heiman, Paul Leoni, Tom Sadowski, and William Sanders submitted their resignations.
7. Roit said the primary goals of the new board are to support and enforce the CC&Rs and to provide maximum transparency of board actions. The board anticipates posting minutes on the website and providing easy contact, by email and phone.
8. Board officers are:

President	Natasha Roit
Vice President	Craig Mohr
Secretary	Barbara Belcher
Treasurer	Helen Tartavull
Chief of Staff	Becky Rickley
AC Liaison	Ann Mohr
Community Liaison	Paul Rudzinski
Getty Liaison	Barbara Belcher

9. Roit summarized the status of the litigation between Andrew Shayne and the Association:
- a) A settlement was made by the old Board on October 12, 2011.
 - b) A confidentiality clause limits what can be said.
 - c) The 2004 amended CC&Rs have been rescinded in Tract 26458 and the original CC&Rs are once again in full force.
 - d) Other tracts are not directly impacted. The 2004 CC&Rs are in force.
 - e) Nothing precludes a revote in Tract 26458. A 10-year "stability clause" in their original CC&Rs was interpreted to mean a revote must be held during 2012 for Tract 26458.
 - f) The new board believes that the confidentiality agreement was fundamentally wrong. The Association is comprised of all homeowners and, therefore, they are entitled to be informed. Further, the insurance premiums, which funded the policy paying for the defense, were paid from community funds.

10. The floor was opened to questions. Many topics were raised and the discussions were interwoven. All questions were asked by attending owners. Responses were given by board members and other owners.

A. Confidentiality Agreement of Shayne Settlement

Questions: How can prohibiting disclosure to "outside parties" translate into not informing owners? Why was there such an agreement in the first place?

Responses: The board is trying to remove the confidentiality provision. Mr. Shayne stated the clause was inserted at the Association's request. Roit said board waives its right of confidentiality. Mr. Shayne was asked if he would waive confidentiality; he declined to do so at this time.

B. Information on Settlement Transmitted to Owners

Question: Does the new board concur with the information and interpretation given in the December, 2011 edition of the *Sunset Mesa-ga*?

Response: Not entirely. The term "judgment" was used, implying that the settlement was invoked by the court. The deal made between the Association and Mr. Shayne was put before the judge in an ex parte proceeding for his signature, which is pro forma in such a circumstance.

C. Attorney for the Association in the Settlement

Question: Is the attorney present at the meeting?

Response: No.

D. Legitimacy and Agenda of New Board

Questions: How was the new board constituted? Will there be a special election before the June Annual Meeting? Isn't this more "closed door" dealing? Why is the board proceeding so quickly?

Response: Actions, cited in 6, above, were based on provisions in the By-Laws by which changes in directors may be made outside the Annual Meeting. They do not include a provision for an interim election by the membership. If members are dissatisfied, these same procedures also could be made against the newly constituted board. All new directors must stand for election at the June Annual Meeting if they wish to continue serving. The board is committed to not conducting "business as usual". Board votes will not be taken in executive session except in limited instances of legal determinations to protect attorney-client privilege and work product privilege. The board is proceeding apace on the matter of Tract 26458 as any revote must be held in 2012.

E. Question Directed to Mr. Shayne

Question: Do you have any issues with the 2004 CC&Rs in addition to the way the vote was conducted?

Response: Mr. Shayne responded that he did have several additional issues.

F. Old CC&Rs and 2004 CC&Rs

Question: What are the main differences?

Response: A one page summary, *Highlight Comparison Between Old CC&Rs and 2004 CC&Rs*, was distributed (copy attached). There were seven builders in the Mesa and each had a slightly different version of CC&Rs. The motivation for the 2004 redo was, in part, uniformity and clarification.

G. By-Laws

Question: What version of the By-Laws is in effect? What happened to the changes voted on at the last Annual Meeting?

Response: We have just received a copy of the By-Laws incorporating those changes and will have a copy posted on the website as soon as possible. If requested, they also will be provided by email.

H. "Stability Clauses" in Other Tracts

Question: Did any of the CC&Rs of tracts other than 26458 contain a 10 year "stability clause" that did not coincide with the 2004 revote?

Response: That is being looked into.

J. Association Financial Records

Questions: When will the records be available for review? What steps are being taken to ensure their accuracy?

Response: Per the By-Laws the Association's financial information routinely has been made available at the end of each fiscal year, and published in the *Mesa-ga*. Quarterly reports have been made at the regular board meetings. With the change in Treasurer, an outside audit will be conducted.

K. Ocean View (OV) Preservation

Questions: What is "ocean view"? What are the property rights of one owner versus OV rights of others? Why can OV preservation trump repairs to roofs and chimneys? Why is the determination of OV hindrance made without regard to magnitude?

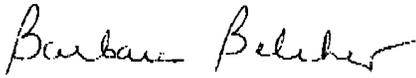
Response: Very strong support was expressed for OV preservation. Many said they would move if it was taken away. "Ocean view" is view of the water, not surrounding coastline, available from any commonly used part of a property. OV is defined in the entirety of its extent and no diminution is allowed. OV preservation is a condition of ownership under the CC&Rs and is enforced by the Architecture Committee (AC). When repairs are made, county building codes may dictate placement or size, but OV preservation is applied in conformance with the CC&Rs. To maintain fairness, the (AC) applies a uniform standard.

11. A Motion was duly made by C. Mohr and seconded by Rickley that the board conduct a revote on the revised 2004 CC&Rs in tract 26458. The Motion was passed unanimously by the board members present. Tartavull voted affirmatively by email on January 7, 2012.

12. The meeting was adjourned at 9:45 p.m.

13. The minutes were prepared by Barbara Belcher.

Attachment: *Highlight Comparison Between Old CC&Rs and 2004 CC&Rs*

A handwritten signature in cursive script that reads "Barbara Belcher". The signature is written in black ink and is positioned above a horizontal line.

Barbara Belcher

HIGHLIGHT COMPARISON BETWEEN OLD CC & RS AND 2004 CC & RS

- Additions, changes, and clarifications found in 2004 CC & Rs are summarized below. If the language is directly quoted, it is in quotes, and the 2004 language is italicized.
- *"The primary purpose of the Declarations and the Amendments thereto was and is to protect existing ocean views of homeowners in the Tracts".*
- *"In no event shall the height limit permitted for houses or residential structures of any sort interfere with the ocean views as provided in Section (f) hereof."*
- The language of the 2004 CC & Rs is that interference is not allowed with *"presently existing ocean views enjoyed by other lots in the same Tract or lots in a contiguous Tract"* as defined in Exhibit AC@ to the new CC & Rs.
- Removes the language that Architectural Committee can *"allow exceptions to"* height limitations.
- Provides you with the right to appeal decisions of the Architecture Committee directly to the Board of Directors.
- *"No lot shall be used except for residential purposes, which can include a home office or incidental structures such as ... tool sheds or similar structures".*
- Allowing 3 car garages versus 2 car garages.
- Adds *"satellite dish or external communication device"* to items such as antennas which cannot interfere with ocean views.
- The size of property advertising signs, political signs and security signs were changed from 2 square feet (old CC & Rs) feet to 3 square feet (new CC & Rs).