

**WATERSIDE VILLAGE OF PALM BEACH
CONDOMINIUM ASSOCIATION, INC.**

**AMENDED MINUTES OF SPECIAL MEETING
OF THE BOARD OF DIRECTORS
HELD IN THE CLUBHOUSE ON OCTOBER 23, 2017 AT 7:30 p.m.
FOR THE PURPOSE OF ADOPTING A RESOLUTION TO APPROVE
A SPECIAL ASSESSMENT FOR DAMAGE CAUSED BY HURRICANE IRMA**

**[Paragraph 4 of the Minutes was amended on January 2, 2018 to include the text of
the Resolution of the Board of Directors for a Special Assessment]**

PRESENT:

André Mongrain – President
Marian Petrescu – Director
Michael Shane – Director
Stacey Casey – Property Manager

PRESENT BY TELEPHONE:

Jean-Claude Demers – Vice-President and Secretary
Claude Comtois – Treasurer
Normand Cadieux – Director
Céline Poissant – Director

1. Quorum

A quorum was present, as seven Directors attended the meeting. Michael Shane acted as the Secretary for the meeting, as Jean-Claude Demers was participating by telephone.

2. Proof of Notices of the Meeting

Michael Shane produced an affidavit sworn by Stacey Casey confirming that the notices of the Special Meeting was mailed, hand delivered or electronically transmitted to owners in accordance with the requirements of Section 718.112 of the Florida Statutes. The affidavit is appended to the Minutes as Appendix 1.

3. Approval of the Agenda

The approval of the Agenda was moved by Claude Comtois, seconded by Normand Cadieux and unanimously approved.

4. Reading of the Resolution of the Board of Directors for a Special Assessment

Michael Shane read the Resolution of the Board of Directors for a Special Assessment and asked the President for his explanatory comments.

The Resolution of the Board of Directors for a Special Assessment states as follows:

The Board of Directors is hereby authorized to levy a special assessment in the amount of \$150.00 per unit for a total of \$61,650 for the purpose of hurricane clean up and repairs, including hiring contractors to cut down trees, repair and restore the buildings and grounds; as well as professional fees. The payment schedule for the special assessment and the due dates are as follows: A one-time payment of \$150.00 due by November 15, 2017.

Proposed by Michael Shane and seconded by Marian Petrescu and adopted unanimously

5. Explanatory comments of the President concerning the Special Assessment

At the outset of his comments, the President indicated that Hurricane Irma was forecast to hit our area as a hurricane at Level 4 or 5. If that had happened, no one would be attending a meeting tonight. Where there is more than 75% destruction, insurance is paid, owners receive a distribution, and the land would be sold.

FEMA does not usually pay a condominium association for damages caused to its property by a natural disaster because the association is a legal entity privately owned by citizens. [See an article concerning this subject that is entitled “Condo Discrimination and attached as Appendix 2].

The President waited until receiving confirmation from the Mayor that the Town of Hypoluxo would remove the debris at no charge. This was a significant saving, as the removal price charged per truckload in the area was a minimum of \$1,000.00 and up to \$4,000.00 per truckload. We were required to hire employees to collect the debris, but we did not pay for its removal.

To date, we have paid \$31,942.68 for damage caused by Hurricane Irma, and we are forecasting the sum of \$32,100.00 in pending invoices for services that we will be required to pay for further repairs.

The owners of two units sent emails asking why we did not use our reserves to pay for the expenses incurred to repair damage caused by Hurricane Irma.

We must now explain what reserves are and their permitted use under the law of Florida. By the way, please just let me mention that we have previously indicated our intention to provide a reconciliation of the various reserves at the Annual Meeting.

Now, let me read the answer that I gave in my email to the owners of the two units concerning the question about reserves and their permitted use, as well as

the specific provision in the Florida Statute that governs the use of reserves and supports the answer.

Email response to the owners of two units:

[Translation]

The decision to impose a special assessment is the responsibility of the Board of Directors.

Our fiscal year-end is October 31. In the event that we do not make a motion for a special assessment before the end of the fiscal year, we will be obliged to declare a loss, which the Association cannot have. [Please also note that Article 7.2 of the Amended and Restated By-Laws states, in part, as follows: “The fiscal year of the Association shall begin on November 1 and end on October 31 of the subsequent year; ...”.] It is difficult for us to change the hurricane season, and this year it will perhaps be longer. Our Canadian friends are not here to help by doing volunteer work.

Given the fact that we are very close to our fiscal year end, we have no possibility of recovering these amounts from other budgetary items before that date.

In Canada (at least in Quebec), the reserves are not specific. Conversely, here in Florida, they are determined in advance and can be used only for the purpose for which they were collected, unless a specific vote is held such as the one for the clubhouse project. As a result, the roof reserve is specific to the roof, the asphalt reserve is specific to the pavement and was used during the summer for the repair of our roads, the pool reserve is for the pools and so on. The reserves must also be subject of an evaluation, as I mentioned in my Budget Report 2017-2018. [Emphasis added]

I think that the Budget Meeting is more important than the special assessment, and it will be held on October 28. No one has questioned this situation in more than 14 years.

I have been at Waterside since September 12 and am working without stopping, including Saturdays and Sundays in order to minimize costs. We were lucky to find and hire workers to assist, but not many Canadian or American residents at Waterside helped. We paid those workers and, for three consecutive days, we employed more than 14 persons.

Some persons have suggested creating a hurricane reserve, but that would not be possible due to the fact that we would not be able to determine the base of the

calculation. Will there be another one in one month, in 10 years and what would be its size or force? It was lucky that Irma turned to the east and not to the west, as at Level 4 or 5, we would all simply be collecting insurance proceeds right now.

In passing, I note that the special assessment for the hurricane in 2005 was \$2,500.00. [End of translation]

Florida Statute:

Chapter 718 of the Florida Statute includes the following provisions relevant to the imposition of a special assessment:

1. Article 718.103(24) Definitions

“Special assessment” means any assessment levied against a unit owner other than the assessment required by a budget adopted annually.

2. Article 718.112(2)(f)(2.a) states, in part, as follows concerning the annual budget:

In addition to annual operating expenses, the budget must include reserve accounts for capital and deferred maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000.00. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. ...

3. Article 718.112(2)(f)(4) states as follows concerning the annual budget: The only voting interests that are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question. Proxy questions relating to waiving or reducing the funding of reserves or using existing funds for purposes other than purposes for which the reserves were intended must contain the following statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy ballot: **WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY**

FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS
REGARDING THOSE ITEMS.

In addition to those statutory provisions, the Board has special powers when an emergency is declared, and the Governor of the State of Florida, Rick Scott, declared on September 7, 2017 that Hurricane Irma constituted an emergency situation.

6. Adjournment

The adjournment of the meeting was moved by Claude Comtois, seconded by Jean-Claude Demers and unanimously approved. The meeting was adjourned at 8:30 p.m.

Jean-Claude Demers
Vice-President and Secretary
October 25, 2017