

***Sandpiper Cay Condominium Owners Association
Board of Directors Meeting
November 16, 2009***

The Sandpiper Cay Condominium Owners Association Board of Directors met on Monday, November 16, 2009 at Village Realty. Steve Kinnier, Pat Ambrose, Liz Puma, Linda Craig and Tom Watkins were present. Emily Lewis and Ansley Miller were present representing Village Realty. Owners representing thirteen units were present as well.

Mr. Kinnier welcomed everyone to the meeting and asked the Board, the members of Village Realty, and the owners introduce themselves.

Mr. Kinnier stated that on Thursday, October 29, 2009 at 7:00 p.m. the Board met in Executive Session to approve the 2010 budget. The final budget was mailed to all owners on November 13, 2009 and is also posted on the website. The 2010 monthly assessment will be \$270, which is a \$25 increase over the 2009 monthly assessment.

Mr. Kinnier discussed the six main reasons for the dues increase:

1. To set aside at least 10% in a separate reserve account that would not be spent during 2010 except in the case of an emergency. Placing at least 10% of revenues into reserves each year is now a lending requirement for many lending institutions. There have been real estate transactions that have fallen through because currently Sandpiper Cay does not have a reserve fund. Mr. Kinnier noted that the entire \$25 increase in the monthly assessment will go to a reserve fund.
2. To maintain the current level of services to owners and residents, including grounds maintenance, pool monitor services, and necessary repairs and maintenance. Mr. Kinnier stated that the Board had received a few letters suggesting that some of the services be eliminated to save money, but the Board has decided against this in order to maintain the appearance and value of the community.
3. To continue to repair and completely replace if necessary the roofs that are failing. Mr. Kinnier stated that the 2010 budget allows for three roof replacements and they will be done as cash is available. The Board consulted with the attorney and was advised that they have a fiduciary duty to budget for and cover all necessary expenses. Ms. Craig noted that a report dated February 20, 2007 was sent to all owners by the former property manager stating that Sandpiper Cay has 36 buildings and 30 of those buildings had new roofs. It has since been confirmed by the maintenance staff and by inspections by Gallop Roofing that this report was incorrect.
4. To obtain an audit by a CPA firm of the 2009 books and records of the Association. It was noted that the Bylaws require an audit at least every five years. This requirement was ignored by the previous management of the Association.
5. To provide sufficient funding for legal services to continue to pursue legal action against the unit owners who are severely delinquent in their financial obligations to the community. The other items that legal fees will be spent on are enforcing the rules of the community and the lawsuit against the previous President, previous Property Manager and previous management company.
6. To keep the 2010 increase in the monthly assessment as small as possible.

Gale Coughlin thanked the Board for all their efforts and for all the information that was included in the budget mailing. She stated that it was very thorough and easy to understand. Other owners agreed.

The owners with delinquent accounts were discussed. Gene Schwenk asked if any of these owners were making payments. Ms. Miller replied that one owner has started making only the regular monthly payment. It was noted that every owner is entitled receive a copy of the delinquent owner list, by contacting the office.

The approval of the Minutes from September 21, 2009 was next on the agenda. On a motion by Ms. Ambrose and a second by Ms. Puma, the minutes were approved as submitted.

Mr. Kinnier went over the Financial Report. A current Balance Sheet, Income Statement, General Ledger Detail Report, Accounts Receivable Report and a year to date Income and Expense Report was presented. Mr. Kinnier asked why only certain month's financials were posted on the website. Ms. Miller replied that she has only been posting the financials that are discussed in each meeting. Mr. Kinnier asked that every month be posted on the website.

Ms. Miller presented the Management Report. Village Realty has updated the Collection Policy to reflect the new late fee amount and suggested a couple other changes. Currently the Collection Policy states that a lien will be filed for unpaid balances exceeding 30 days and that accounts with unpaid balances exceeding 90 days will be turned over to the Association's attorney. The suggested revision is for liens to be filed after 90 days and accounts be turned over to the attorney after 150 days. A draft of the proposed new policy was included in the meeting packet. Ms. Ambrose noted that the 2006 version of the NC Condominium Act states that late fees can not exceed \$20. Ms. Miller stated that she would look into this. Mr. Kinnier asked for a motion to approve the new Collection Policy including the changes suggested by Village Realty with a late fee amount of \$25 unless it is determined that \$20 is the maximum late fee that can be charged. On a motion by Ms. Ambrose and a second by Ms. Puma, the new Collection Policy was approved. The new policy will be posted on the website.

The Terminix report that was requested at the last Board meeting was included in the meeting packet. A journal entry was entered to correct a Terminix claim check that was applied to the wrong account.

Pool furniture recommendation: The Service Department will be able to repair 8 lounge chairs. Village Realty recommends purchasing 5 new lounge chairs at a cost of \$269 each and 4 new cushions at \$104 each. Also recommended is purchasing 2 new tables and umbrellas at a cost of \$239 per table and \$249 per umbrella. Carolina Casual Furniture offers Sandpiper Cay a 10% discount, so the total would be around \$2,500 for all these items. The Service Department will fix the grouting around the top tiles that Bella Reber mentioned at the last meeting. This will be completed before the pool opens next year. Ms. Craig asked Ms. Miller to check on the discount offered and see if they will offer a better deal. It was suggested that a grill be purchased also. Mr. Kinnier stated that the purchase of new pool furniture or the purchase of a grill does not need to be decided for a few more months. The Board will revisit this in the spring.

Basketball area recommendation: Village Realty recommends a portable basketball system if the Board decides to move forward with having a basketball area at the tennis courts. The prices range from \$300-\$600. It would be easy to install and would not damage the asphalt surface. Installing a permanent goal would require a hole being cut in the asphalt. There is no damage that can be done to the tennis court surface if tennis shoes are worn while playing basketball. On a motion by Ms. Ambrose and a second by Ms. Craig, the purchase of the portable basketball system was approved.

Ms. Miller presented the maintenance items that have been completed since the last meeting. Ms. Craig asked about the door repair/replacement. She stated that all the front doors had been replaced in the past few years and should not need repair or replacement. Ms. Miller replied that this is addressing the sliding doors, both screen and glass, not the front doors. The gate repairs were discussed. Ms. Craig stated that she often sees gates unlatched. Doing this can cause damage in high winds. A note will be included in the next newsletter reminding residents to always latch their gates.

The roof replacement schedule was discussed. Mr. Kinnier stated that Gallop Roofing recommended replacing the roof on the 1000 building and the roof on the 3400 building this year. The Board has already approved the replacement of the 1000 roof. Mr. Kinnier asked Ms. Miller to check with Gallop on the timing of the 3400 roof replacement and asked for a motion to approve the roof replacement of the 3400 building. On a motion by Mr. Watkins and a second by Ms. Ambrose, the 3400 roof replacement was approved.

The 2010 Annual Meeting was discussed. The cost to rent Kitty Hawk Elementary in 2009 was \$330. Kitty Hawk Town Hall is available for a fee of \$30 and will hold a maximum of 150 people. Village Realty has looked at the room and thinks that it would work well. It was decided that the Annual Meeting will be held on Saturday, March 6, 2010 at 9:00 a.m. Ms. Miller will confirm that Town Hall is available on this date.

The appointment of an Elections Committee was discussed. The Bylaws state that the Board must appoint an Election Committee consisting of one member of the Board whose term is not expiring and at least two other unit owners. Mr. Kinnier stated that Ms. Craig has agreed to serve on the committee and asked the owners to volunteer to serve on the committee. Reuben Greene and Gene Schwenk stated that they would serve on the committee. On a motion by Ms. Puma and a second by Ms. Ambrose, Linda Craig, Reuben Greene and Gene Schwenk were appointed as the Elections Committee.

Mr. Kinnier presented a draft of the Nominating Petition form and instructions. He stated that Monday, January 4, 2009 will be the deadline for nomination forms. If the Elections Committee receives at least two valid nominating petitions by the deadline, the Board does not intend to accept any nominations from the floor at the 2010 Annual Meeting (Bylaws, Section 3.4(b)). Ms. Ambrose stated that she will be seeking re-election. Mr. Kinnier asked Ms. Miller to get the Elections Committee a list of the owners with delinquent accounts that will not be able to sign the petition or be eligible for nomination. On a motion by Ms. Ambrose and a second by Ms. Craig, the Nominating Petition was approved. It will be posted on the website.

The 2009 audit contract with CPAs Burgess, Lowman and Lay, PA was presented. Mr. Kinnier stated that the proposed cost for the audit is \$5,600. On a motion by Ms. Ambrose and a second by Ms. Puma, the audit contract was approved.

The 2010 Village Realty contract was discussed. Mr. Kinnier stated that Village Realty had requested a 2% increase in the management fee and maintenance fee. Mr. Kinnier stated that this was a reasonable amount for an increase, considering there was no increase in 2009. Mr. Watkins noted that he would abstain from voting on the Village Realty contract. On a motion by Ms. Craig and a second by Ms. Puma, the 2010 Village Realty contract was approved.

The pest control and landscaping bids were discussed. Village Realty recommended staying with the current vendor for both services. The two pest control bids were substantially more than what the Association is currently paying with Terminix. One of the landscaping bids was substantially higher and the other bid was comparable with what the Association is paying now. However, Village Realty pointed out that the learning curve for another landscaping company would be considerable. Village Realty has found that it normally takes at least two years for a new landscape company to be completely up to speed on all the particulars of the landscaping and irrigation needs of a community the size of Sandpiper Cay. On a motion by Ms. Ambrose and a second by Ms. Puma, the Board agreed to stay with Terminix for pest control. On another motion by Ms. Ambrose and a second by Ms. Puma, the Board agreed to stay with Beach Mowing for landscaping and irrigation.

Mr. Kinnier gave an update on the Legal Complaint. He stated that Susan Seay has filed a response to the Association's complaint. She also filed a counterclaim asking for the severance that she says is owed to her. The Association's attorney has filed a response to her counterclaim. Doug Seay has received an extension on filing his response and the official response was expected in the next week. A counterclaim against the Association is also expected from Mr. Seay's attorney.

Mr. Kinnier stated that the Board has received letters and emails from owners both supporting and not supporting the actions that the Board is taking. Because of the number of letters and some common comments, Mr. Kinnier declined to read the letters, but instead addressed the main concerns stated in the letters.

Why was the past Board not included in the complaint?

Mr. Kinnier stated that although the past Board failed at their duties, there is no evidence that indicated that any of the members of the Board participated in the financial and accounting irregularities described in the Complaint. It is obvious now that Mr. Seay and Ms. Seay concealed a significant amount of information from the Board members. However, the other Board members could be added to the Complaint if we obtain evidence that the Board members were involved in the conspiracy. Mr. Kinnier added that even though the former Board members were not included in the Complaint, their service of the Board was nevertheless a tragic failure, as the Board members never questioned the lies by the Seays and never looked at the monthly financial statements of the Association. Their most unforgivable failure was the decision by those Board members to ignore the Bylaws of the Association by not obtaining timely CPA audits.

Why are the storm accounts included in the complaint when an investigation was done by the previous Association attorney, Vandeventer Black LLP in January 2008 that found no improper action?

Mr. Kinnier stated that the Board is not trying to reopen the prior attorney's investigation. Mr. Seay and Ms. Seay never provided a full accounting on the storm damage and all that the Board is asking for in the complaint is the full accounting to see how the insurance proceeds were spent. If the work was done then there should be records of what was spend from the tax return 1099s that should have been filed. It was noted that Mr. Seay had said that he served as General Contractor for the repairs done after the storms. Mr. Kinnier replied that if that was the case then he should be able to provide a full accounting since he would have needed to pay federal and North Carolina income tax on what he paid

himself. It should be noted that the Seay's also conspired to conceal important information from Vandeventer Black LLP, so the validity of the legal opinion remains open to question. Ms. Peet stated that the Board has done a good job.

What does the Board expect to get out of this case? Is the Board just trying to spend money to prove a point and ruin the reputation of the parties involved?

There is overwhelming evidence of Ms. Seay paying herself 15 months of salary in a one year period, which indicates that she took money from the Association she was not due. The Board did not approve this expenditure because Mr. Seay and Ms. Seay concealed the information from them. We want that money back. Ms. Seay also drew a full administrative services salary for all of 2007 even though she failed to properly keep the Association's books and records, and we want that money back, too!

A very troubling legal issue is the fact that Mr. Seay served on the Association's Board and served as the Association's President in 2006 and 2007 in violation of the Association's Bylaws. For all of 2006 and 2007 the monthly assessments on unit 3401 were severely delinquent. This unit is owned by a trust, the trustees of which are Mr. Seay and Ms. Seay. Mr. Seay was re-elected to the Board in March 2007 when he should have never been allowed to run because of the delinquent dues owed on unit 3401. Again, the Board did not know that he was delinquent with his dues because the information was concealed from them. During the 2007 Annual Meeting Ms. Seay stated that there were no delinquent accounts in Sandpiper Cay at that date. This was a boldface lie, as we now know there were at least eight delinquent accounts on that date, including the Seays' unit 3401. The willingness of both Mr. Seay and Ms. Seay to conceal important information from the Board members, the unit owners and the Association's attorney have resulted in the Association incurring excessive accounting and legal fees, and we want that money back! Unit 3401 is now over \$8,000 past due and we want that money, too!

There is also overwhelming evidence that Mr. Seay wrote checks to himself from Association accounts. Mr. Seay informed the owners at the 2007 Annual Meeting that he had never signed a Sandpiper Cay check and evidence disputes that. In short, pattern of concealments by Mr. Seay and Ms. Seay has cost the Association a lot of money by having to pay an attorney and two accounting firms to get the books straight. Ms. Seay was getting paid to keep the books and it was the job of Mr. Seay to ensure that she was doing what she was getting paid to do. Mr. and Ms. Seay did not fulfill their obligations to the Association, which cost the Association a lot of money and everyone in the Association is entitled have knowledge of this. With the assistance of Mr. Seay, Ms. Seay received a lot of money from the Association she was not due, and we want it back!

Mr. Kinnier also noted that none of the letters received by the Board in defense of Mr. Seay contained any rebuttals against the allegations of financial and accounting irregularities against Ms. Seay. Mr. Seay's most important responsibility as Association President was to monitor the financial transactions by Ms. Seay, to obtain CPA audits, and to review Ms. Seay's performance. He did not do any of this, and the Association has suffered. Any case for defense of Mr. Seay without addressing his obligations to monitor Ms. Seay is a fatally-flawed case.

How much does the Board intend to spend in legal fees to pursue the lawsuit?

Mr. Kinnier stated that the Board is mindful of how much they will spend on legal fees pursuing the lawsuit. At this point only about \$5,000 has been spent on the Complaint. He noted that most of the legal groundwork for the legal document that later became the Complaint needed to be done to allow the CPAs to complete the 2008 audit. The financial and accounting irregularities committed by the Seays and their willingness to conceal their activities required our attorneys to do a lot of work. Once the financial statements were completed, it did not take a lot of effort for our attorneys to pull all their work together and type up the Complaint. Stated another way, the Complaint was a by-product of the project to get the 2008 audit completed. The 2010 budget has \$16,000 budgeted for legal fees. Most of this money will be spent on trying to collect the past dues from the severely delinquent owners. On the advice of legal counsel, the Board is not going to disclose how much of the legal fee budget is being set aside to pursue the Complaint.

In conclusion, Mr. Kinnier said that the most important objective of the Complaint has already been achieved, as all of the Sandpiper Cay owners are now fully-informed of the Seays' improper financial management and accounting that has damaged the Association.

Ms. Peet asked about how much money is expected to be recovered from the lawsuit. Mr. Kinnier replied that he has no idea how much can be recovered. He stated that the Association has a good case and will most likely recover some funds.

Harry Gries stated that the case is currently a civil case and asked if there is any chance that it will become a criminal case. Mr. Kinnier replied that the District Attorney is not pursuing the case at this time and it is unknown if it will be pursued in the future. Owners asked if they could get involved by making a request to the District Attorney. Mr. Kinnier replied that owners should not intervene at this time.

Barbara Lawrence gave a report for the Social Committee. She stated that there are no events planned at this time. The committee will be planning events for spring and they will be posted on the website as soon as the events are planned.

A report on the Community Watch was presented. There were about seventeen people at the last meeting and it was very informative. It was noted that both of the meetings have been very good and informative.

The next Board meeting date was set for January 18, 2010 at 1:00 p.m. at Village Realty.

With there being no further comments, Mr. Kinnier adjourned the meeting.

Following the regular meeting, the Board met in Executive Session. No actions were taken.

Respectfully Submitted,

Ansley Miller
Assistant Property Manager