

MINUTES OF THE REGULAR MEETING OF THE  
BOARD OF DIRECTORS OF THIRD LAGUNA HILLS MUTUAL  
A CALIFORNIA NON-PROFIT MUTUAL BENEFIT CORPORATION

**January 18, 2011**

The Regular Meeting of the Third Laguna Hills Mutual Board of Directors, a California non-profit mutual benefit corporation, was held on Tuesday, January 18, 2011 at 9:30 A.M. at 24351 El Toro Road, Laguna Woods, California.

Directors Present: Carol Moore, John Paulus, Kathryn Freshley, Carol Skydell, Dick Palmer, Denny Welch, Isabel Muennichow, Rae Tso, Sy Wellikson, Lucy Shimon, Dominic Burrasca

Directors Absent: None

Others Present: Jerry Storage, Patty Kurzet

Executive Session: Jerry Storage, Patty Kurzet, Luis Rosas

**CALL TO ORDER**

Director Carol Moore, President of the Corporation, chaired the meeting and stated that it was a regular meeting held pursuant to notice duly given and that a quorum was present. The meeting was called to order at 9:30 A.M.

A moment of silence was held to honor the US Troops serving our country and those placed in harm's way.

**PLEDGE OF ALLEGIANCE**

Director Rae Tso led the Membership in the Pledge of Allegiance to the Flag.

**ACKNOWLEDGEMENT OF PRESS**

Ms. Claire Webb from the Laguna Woods Globe was not present at the start of the meeting, and the Channel 6 Camera Crew, by way of remote cameras, was acknowledged as present.

**APPROVAL OF AGENDA**

Without objection the Board approved the agenda as submitted.

**CHAIR'S REPORT—Carol Moore**

President Moore commented on an informational article written by Assemblyman Norby and published in the Orange County Register warning elected boards on becoming too reliant on professional staff. She commented on the introduction of installing natural street paving to GRF in hopes that it would be used throughout the community, and thanked those residents who call, email, or approach board members asking them to work on resolving issues.

**APPROVAL OF THE MINUTES**

Without objection the Board approved the minutes of the Regular Meeting of December 21, 2010.

## **CONSENT CALENDAR**

Without objection, the Board approved the Consent Calendar as presented, with the exception of removing 3014-A - *Denial of request to retain lattice balcony modesty panels* from the Consent Calendar and placing the item under the Maintenance and Construction Committee report, and the Board took the following actions:

### Maintenance & Construction Committee Recommendations:

- |         |  |
|---------|--|
| 3148-C  | Approval of request to perform front patio extension with wood fence and gate, with contingencies                                    |
| 4002-2D | Approval of request to install an HVAC unit on a rack on balcony wall, with contingencies  |
| 5202    | Approval of request to install stackerstone on an architectural accent and retain a tree ring installed at manor, with contingencies |
| 5516-A  | Approval of request to retain a guest bedroom window installed at manor, with contingencies  |

### Landscape Committee Recommendations

- |         |   |
|---------|---|
| 3156-A  | Denial of appeal request to remove rosemary ground cover                        |
| 2392-2B | Denial of request for design change, plant replacements and trimming            |
| 3102-A  | Approval of request to replace mortarless blocks at the Mutual Member's expense |
| 3254-C  | Denial of request for tree removal  |
| 3287-B  | Approval of request for tree removal at Mutual's expense                        |

### Finance Committee Recommendations

## **RESOLUTION 03-11-01**

**WHEREAS**, Member ID 932-120-02 is currently delinquent to Third Laguna Hills Mutual with regard to the monthly assessment; and

**WHEREAS**, a Notice of Delinquent Assessment (Lien) will be filed upon adoption of this resolution following at least a majority vote of the Board (with no delegation of such action by the Board), acting in an open meeting, and for which the Board's vote is recorded in the minutes;

**NOW THEREFORE BE IT RESOLVED**, January 18, 2011, that the Board of Directors hereby approves the recording of a Lien for Member ID 932-120-02; and

**RESOLVED FURTHER**, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out this resolution as written.

**RESOLUTION 03-11-02**

**WHEREAS**, Member ID 932-790-72 is currently delinquent to Third Laguna Hills Mutual with regard to the monthly assessment; and

**WHEREAS**, a Notice of Delinquent Assessment (Lien) will be filed upon adoption of this resolution following at least a majority vote of the Board (with no delegation of such action by the Board), acting in an open meeting, and for which the Board's vote is recorded in the minutes;

**NOW THEREFORE BE IT RESOLVED**, January 18, 2011, that the Board of Directors hereby approves the recording of a Lien for Member ID 932-790-72; and

**RESOLVED FURTHER**, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out this resolution as written.

**RESOLUTION 03-11-03**

**WHEREAS**, Member ID 932-810-42 is currently delinquent to Third Laguna Hills Mutual with regard to the monthly assessment; and

**WHEREAS**, a Notice of Delinquent Assessment (Lien) will be filed upon adoption of this resolution following at least a majority vote of the Board (with no delegation of such action by the Board), acting in an open meeting, and for which the Board's vote is recorded in the minutes;

**NOW THEREFORE BE IT RESOLVED**, January 18, 2011, that the Board of Directors hereby approves the recording of a Lien for Member ID 932-810-42; and

**RESOLVED FURTHER**, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out this resolution as written.

**RESOLUTION 03-11-04**

**WHEREAS**, Member ID 933-620-81 is currently delinquent to Third Laguna Hills Mutual with regard to the monthly assessment; and

**WHEREAS**, a Notice of Delinquent Assessment (Lien) will be filed upon adoption of this resolution following at least a majority vote of the Board (with no delegation of such action by the Board), acting in an open meeting, and for which the Board's vote is recorded in the minutes;

**NOW THEREFORE BE IT RESOLVED**, January 18, 2011, that the Board of Directors hereby approves the recording of a Lien for Member ID 933-620-81; and

**RESOLVED FURTHER**, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out this resolution as written.

**RESOLUTION 03-11-05**

**WHEREAS**, Member ID 934-904-03 is currently delinquent to Third Laguna Hills Mutual with regard to the monthly assessment; and

**WHEREAS**, a Notice of Delinquent Assessment (Lien) will be filed upon adoption of this resolution following at least a majority vote of the Board (with no delegation of such action by the Board), acting in an open meeting, and for which the Board's vote is recorded in the minutes;

**NOW THEREFORE BE IT RESOLVED**, January 18, 2011, that the Board of Directors hereby approves the recording of a Lien for Member ID 934-904-03; and

**RESOLVED FURTHER**, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out this resolution as written.

**RESOLUTION 03-11-06**

**WHEREAS**, Member ID 937-990-26 is currently delinquent to Third Laguna Hills Mutual with regard to the monthly assessment; and

**WHEREAS**, a Notice of Delinquent Assessment (Lien) will be filed upon adoption of this resolution following at least a majority vote of the Board (with no delegation of such action by the Board), acting in an open meeting, and for which the Board's vote is recorded in the minutes;

**NOW THEREFORE BE IT RESOLVED**, January 18, 2011, that the Board of Directors hereby approves the recording of a Lien for Member ID 937-990-26; and

**RESOLVED FURTHER**, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out this resolution as written.

### **GENERAL MANAGER'S REPORT**

Mr. Storage updated the Board on the Golf Building project; reported on ongoing projects in the Community that impact Third residents, including the water conservation pilot program; and commented on the mitigation measures taken to resolve further flood damage in cul-de-sacs 221, 371 and 378.

President Moore described the Board decorum for Member Comments.

### **THIRD MUTUAL MEMBER COMMENTS and PUBLIC FORUM**

- Mike Straziuso (4006-2E) commented on comments made last month from a Director that 98% of lawsuits always settle before going to trial; inquired if PCM has a fiduciary duty to the Boards to communicate in detail any payments being made to employees that are over and above what has been set in the budget; commented on the Judge's dismissal of the elder abuse claim from Third Mutual's amended complaint and reported on the large amount of future legal fees to be expended to defend the cross-complaint claims; recommended that the Executive Officers of the Board step down while the lawsuit is in progress; requested that the Board hire independent legal counsel to investigate the grounds of the lawsuit; and questioned the Board's leadership.
- Corkey Eley (2401-2E) commented on an ad GRF placed in the Globe that responded to her letters to GRF and HKC addressing her issues of the Trust, CC&Rs, the Golf Building and operating expenses.
- Bud Nesvig (2392-3H) commented on Third Mutual following United Mutual's lead to hold Director Coffees; stated that a meeting was held in Buildings 2392 and 2395 where a representative from United was in attendance who spoke to flooding in United Mutual and hoped that both United and Third work together to resolve issues.
- Pat Wilkinson (5274) commented on the lawsuit, the dismissal of the elder abuse claim, and the amount of legal fees incurred to-date. She commented on the lack of respect shown to staff and the constant criticism; inquired of Third's plan to self manage; and asked the new Directors if they received answers to their requests for information about the lawsuit.
- Karel Brouwer (3189-C) recommended that the new Board members pay attention to the alleged abuses by PCM in the Community.
- Mary Robertson (5184) commented on the amount of attorney's fees that the Mutual will expend by the end of the lawsuit.
- Irving Snyder (3188-A) commented on requesting the installation of a threshold for a resident to use her scooter in the building, and commented on the water conservation pilot program.
- Art Harris (3244-1G) thanked the City for assisting the Mutual in asking Ware Disposal to not damage the trash container doors, and thanked the Board for filing the lawsuit because it is the right thing to do.
- Rosemarie di Lorenzo Dickins (4015-2G) stated that bonus payments come under the employee compensation line item in the budget and that the client needs to approve the payments, and commented on Third's attempt to get PCM to attend a Mediation to solve their differences.

- Jan Marshall (322-D) announced her appreciation for the Board members for their hard work and commented on the constant negative comments that are affecting the residents.

### **DIRECTORS' RESPONSES TO MEMBER COMMENTS**

- Director Wellikson advised that members' comments should only address items that fall within the jurisdiction of the Board of Directors of Third Mutual.
- Director Welch announced the Directors Coffee will be held at 4:00 P.M. in the Elm Room on February 10, 2011 and encouraged directors and residents to attend. She indicated that the new Directors met with attorney Cohon January 13, 2011 regarding the lawsuit and that he indicated he will provide them the documentation they requested. She expressed her opinion of the lawsuit and desire to resolve the issues, and to establish transparency, control and limits and to regain an atmosphere of mutual trust and respect between PCM and Third Mutual.
- Director Freshley indicated that the new Golf Building project has been fully funded through GRF's Reserves; stated that 98% of all lawsuits are settled before trial, and the Board will move forward as appropriate in their representation for the community; opined that PCM has the fiduciary duty to the community to inform the Board of any money that has been expended over and above that has been contractually applied at the time the budgets were set; stated that all documentation and information regarding the lawsuit has been provided to the new Board members and the majority of the Board members believe that it is in the best interest of the community to investigate any wrong doing and get the situation resolved.
- Director Paulus commented on his review of the Incentive Plan payouts for Third and GRF during his term as Treasurer.
- Director Shimon commented on the amount of time the Board is allowing for member comments.

### **OLD BUSINESS**

No old business came before the Board.

### **NEW BUSINESS**

Director Skydell made a motion to continue using Third Mutual resident Hillel Pitlik as a representative for the Elevator Replacement Program. Director Wellikson seconded the motion and the motion carried without objection.

Director Muennichow made a motion to join Community Association Institute (CAI) in the amount of \$664 a year to be funded from the existing operating budget. Director Tso seconded the motion and discussion ensued. Director Muennichow commented that by joining, the Board would receive many benefits and education on how to effectively lead a homeowner association.

Director Freshley indicated that if GRF became a Member, then costs would be saved by their sharing information with the Third Board on what they think is appropriate; and if those Third Directors who would find the Membership helpful to themselves wish to join, that they purchase the membership as an individual.

Members Mary Robertson (5184) commented on the benefits of joining CAI, and Pat Feeney (2399-1E) commented on the ECHO Journal.

By a vote of 3-7-0 (Directors Muennichow, Welch, Tso voted in favor), the motion failed.

Director Welch made a motion recommending to those Directors who want the Membership, to join on behalf of the Third Mutual Board at the cost of Third Mutual. The motion failed due to the lack of a second.

### **FINANCE REPORT**

Director Kathryn Freshley gave the Treasurer's and the Finance Committee Reports, and commented on the Resale & Lease Activities.

Director Freshley reported that the legal fees incurred through November 2010 for Third's lawsuit against PCM is approximately \$120,000 and indicated that \$27,000 of that amount was a result of Defendant's attorney filing a frivolous sanctions motion against Third Mutual; \$2,475 of which was paid back to the Mutual.

Director Freshley announced that Jim Hart has resigned as the Finance Advisor and announced that Wei-Ming Tao, who is a 3 year resident, has been appointed as the new advisor and provided a brief summary of her accounting experience.

Director Wellikson advised the Board that a committee cannot appoint an advisor without Board approval. The Board discussed the legality of approving the advisor at this meeting. Without objection, the Board agreed to approve the appointment at the next meeting.

### **COMMITTEE REPORTS**

Director Lucy Shimon reported from the Landscape Committee.

The Secretary of the Corporation, Director Carol Skydell, read the following resolution approving a policy on planting fruit trees in common areas:

#### **RESOLUTION 03-11**

**RESOLVED**, March 15, 2011, that the planting of fruit trees in common areas managed by this corporation shall be permitted under the following conditions:

1. Any fruit tree henceforth planted in a common area must be of the dwarf variety;
2. Any dwarf fruit tree planted must be planted either within the courtyard or directly adjacent to the manor or patio slab;
3. Any fruit tree presently planted in the common area must be marked by the installing resident, or his or her successor, with a yellow stake and fully maintained in a manner acceptable to the corporation; the same

procedure shall apply to all dwarf fruit trees planted pursuant to this resolution;

**RESOLVED FURTHER**, that the managing agent is hereby authorized to remove any fruit tree located in a common area owned by this corporation if the previously stated conditions are not met and the compliance process has been followed; and

**RESOLVED FURTHER**, that this resolution shall become in full force and effect on March 15, 2011; and

**RESOLVED FURTHER**, that the resolution M3-84-121 adopted on September 18, 1984, is hereby superseded and canceled; and

**RESOLVED FURTHER**, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out this resolution as written.

Director Skydell moved to approve the resolution. Director Welch seconded the motion and discussion ensued.

Member Bud Nesvig (2392-3H) addressed the Board on the date when the resolution will be approved.

Director Skydell made a motion to postpone the resolution to the February meeting to conform to the 30-day notification requirement. Director Welch seconded the motion and the motion carried without objection.

Director John Paulus reported from the Maintenance and Construction Committee.

Director Paulus made a motion to return the request of 3014-A to retain lattice balcony modesty panels back to the Maintenance and Construction Committee for further review. Director Wellikson seconded the motion and the motion carried without objection.

The Secretary of the Corporation read a proposed resolution authorizing a supplemental appropriation to widen the road 28 feet in Area D of CDS 306 to allow for curbside parking for up to three vehicles. Director Skydell moved to approve the resolution. Director Freshley seconded the motion and discussion ensued.

Members Sandy Post (3048-O), Pat Feeney (2399-1E), Shari Horne (2354-3C), and Karel Brouwer (3189-C) addressed the Board on the parking issue in CDS 306.

By a vote of 8-2-0 (Directors Tso and Skydell opposed), the motion carried and the Board of Directors adopted the following resolution:



**RESOLUTION 03-11-07**

**WHEREAS**, by way of Resolution 03-10-107, the Board of Directors of this Corporation approved funding to retain engineering services to begin the design of potential parking in 3 areas in cul-de-sac 306; and

**WHEREAS**, Area D that is on the northeast side of CDS 306 adjacent to carport 3027 is one of the areas with parking potential;

**NOW THEREFORE BE IT RESOLVED**, January 18, 2011, that the Board of Directors of this Corporation hereby authorizes a supplemental appropriation in the amount of \$9,700 funded from the Unappropriated Expenditures Fund and the use of \$3,500 of the remaining funds from Resolution 03-10-107 to widen the road up to 28 feet in Area D of CDS 306 to allow for curbside parking for up to three vehicles; and

**RESOLVED FURTHER**, that a portion of the curb, gutter and grass would be removed to widen the road, and since minimal grading is required, a City permit would not be necessary; and

**RESOLVED FURTHER**, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out this resolution as written.

The Secretary of the Corporation read the following proposed resolution authorizing an unbudgeted operating expenditure to paint carport structures 3148, 3149 and 3150:

**RESOLUTION 03-11-**

**WHEREAS**, repairs to fire-damaged Building 3486 are nearing completion, and since the fire-related repairs have necessitated that the building be painted outside the Mutual's planned paint program schedule, and for aesthetic considerations the carport structures adjacent to Building 3486, which were not damaged by the fire that damaged Building 3486, also need painting;

**NOW THEREFORE BE IT RESOLVED**, January 18, 2011, that the Board of Directors of this Corporation hereby authorizes an unbudgeted operating expenditure of \$6,000 to be funded from the existing operating budget in General Maintenance to paint carport structures 3148, 3149 and 3150, to closely match the appearance of the freshly painted Building 3486; and

**RESOLVED FURTHER**, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out this resolution as written.

Director Skydell moved to approve the resolution. Director Welch seconded the motion and discussion ensued.

Member Barbara Marsh (3433-B) commented on the resolution.

By a vote of 2-8-0 (Directors Freshley and Paulus voted in favor), the motion failed.

A discussion was held relative to asking for smoker and non-smoker resident volunteers to attend tomorrow's City Council meeting that is expected to take action on a smoking ban in the Community.

Director Skydell reported from the Board Operating Rules Ad Hoc Committee.

Member Bud Nesvig (2392-3H) commented on flood mitigation.

Director Palmer reported from the Water Conservation Ad Hoc Committee.

Director Paulus reported from the Resident Problem Resolution Services.

Director Welch reported from the Information Access Ad Hoc Committee.

Director Burrasca reported from the Traffic Committee.

Director Muennichow reported on the Long Range Planning Committee.

#### **GRF COMMITTEE REPORTS HIGHLIGHTS**

- Director Shimon reported from the Bus Services Committee.
- Director Tso reported from the Broadband Committee.

#### **DIRECTORS' COMMENTS**

- Director Burrasca commented on flooding mitigation.
- Director Welch wished everyone health, wealth and time to enjoy them.

The Board recessed at 12:55 P.M. and reconvened into Executive Session at 1:48 P.M.

#### **Summary of Previous Closed Session Meetings per Civil Code Section §1363.05**

During its Regular Executive Session meeting of December 21, 2010 the Board reviewed and approved the minutes of the Regular Executive Session Meeting of November 16, 2010; heard four (4) disciplinary hearings; approved filing Notices of Default for Member ID 931-511-21, Member ID 931-511-87, Member ID 932-120-63; approved six (6) delinquency write-offs; approved filing two separate Small Claims Cases of \$2,500 (or less); discussed the legal matters of Ellen Moss v. Third Mutual, Victoria Pullman v. Third Mutual, Third Mutual v. PCM, Inc., and Elliot Nesvig v. Third Mutual.; and discussed other member disciplinary and legal matters.

The Traffic Committee of the Board met in Executive Session on December 22, 2010 to discuss member disciplinary issues.

January 18, 2011

With no further business before the Board of Directors, the meeting was adjourned at 4:48 P.M.

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Carol Skydell, Secretary