

WEST GALVESTON ISLAND PROPERTY OWNERS ASSOCIATION

The West Galveston Island POA Board of Directors meeting was held on July 16, 2016. Jerry Mohn, President called the meeting to order at 9:00 a.m. A quorum was established by attendance of Directors: Bermuda Beach – Bill Ferrary, Isla Del Sol – Bill Yarborough, Dunes of West Beach – Jay Lendrum, Jamaica Beach – Steve Kendziera, Laffites Cove – Bet Jennings, Palm Beach – Melanie Perry, Pirates Beach & Cove – Dick Kuriger, Pointe San Luis – Greg Mack, Pointe West – Kim Foley, Sea Isle – Charley Jones, Spanish Grant Beach – Peggy Zahler, Terramar – Craig Vance, and Susan Gonzales - Secretary.

Jerry Mohn acknowledged Corporate Sponsors JSC Credit Union – Peggy Zahler, Barney Rapp Realtors – Peggy Rapp, CKM Property Management – Susan Gonzales and Barbara Zimmerman.

Jerry introduced Clyde Steddum – Parks Board of Trustees, Joe Giusti – County Commissioner, Jimmy Fullen – Constable, and Carolyn Sunseri – City Council Member.

The Board reviewed the minutes of the prior meeting. Motion by Peggy Zahler and seconded by Dick Kuriger, the Board approved the minutes of June 18th meeting and July 11, 2016, financials by unanimous vote.

Community Policing – West End – Lt. Joey Quiroga stated do not leave doors unlocked. Put away belongings every night. Report every crime no matter how small. Call his cell on any issues: 409-256-0762

Sand Replenishment – Peggy Zahler reported on the sand replenishment problems on the island. Dr. Tom Linton reported on a sand motor, which is being used in the Netherlands (it gets the sand and deposits it on the beach). TAMUG has agreed to match the donations received. Feeder Beach – if you have a beach and let nature take its course. Permitted sight to drop, the sand will move from wind and wave action will deposit sand down the beach. Do not have the cost of dredging and placement and you do not disturb the turtles or people in the process. Dellanera Park and Bay Beach have been successful. Restoration Funds from BP will also be tapped. The Board previously approved a \$2500 donation for the project and Peggy Zahler presented the check to Dr. Linton.

District 6 – Carolyn Sunseri stated there are two (2) new council members. Volunteers are needed for the many Boards such as Airport, Art & Historical Board, Civil Review, Transportation, Parks Board, Planning Commission, and many more. Carolyn asked those interested in volunteering to please contact the City.

The COG is reviewing the following items for action: signage on the beach, no parking on one-side signs, no overnight parking. The budget process has started and the COG is expecting to reduce taxes by one cent. The Bermuda Beach sewer – expect completion by the end of the summer. Spanish Grant Bay – a “no fishing from the bridge” sign was installed. Carolyn asked that landscapers do not sweep clippings into the ditch and drains.

Texas Residential Property Code: Peggy Rapp and Susan Gonzales introduced Charles Jordan Partner with Daughtry & Jordan who will present Texas Residential Property Code Chapter 209 for Board of Directors of Property Owners Associations.

The following is the presentation by Charles Jordan:

Governing Documents and Records consist of Plats/Maps; Covenants, Conditions & Restrictions (CC&R's); Articles of Incorporation, Bylaws, Board Policies; Architectural Guidelines; Rules & Regulations

Board Policies. There is a hierarchy of documents – which document came first – Plat, CC&R's, Articles of Incorporation, Bylaws, Rules Regulations Policies. Only documents recorded at the County Clerks Office are enforceable.

Members Vote & Duty

*Members have the duty to pay assessments, compliance with CC&R's, participate in activities as a volunteer. Open Board meetings means the property owner has a right to hear not be heard.
*The board chair/President may recognize the property owner and make a note to put the item for discuss on the next meeting agenda as a topic, but not to enter in a long discussion disrupting the Board meeting.

Property Code Chapter 209.00591 Board Membership and Meetings –

*The documents that govern a meeting are the Articles of Incorporation and Bylaws and CC&R's, if meeting rules are included.

*Any one may run for a Board position regardless of whether they are in noncompliance with the restrictions or are delinquent. Any provision in a dedicatory instrument that restricts a property owner's right to run for a position on the board of the Association is void. The only exception is if a person not more than 20 years prior to running for a Board position was convicted of a felony or crime involving moral turpitude than they may not run.

*Bylaws may require on or more board members be residence but not all. You have to allow one (1) spot for a property owner who is not a resident.

*A Husband and wife may both run unless one is not on the deed. Non-owners are prohibited from running.

*Board members whose term expires must be elected. Board members who resign may be replaced with an appointment for the remaining term.

When a question concerning rules or restrictions on property occurs – look first to the plat and notes on the plat, second the CC&R's, next the ACC Guidelines and Board policies.

Board Duties & Liabilities –

*Duties of obedience (forbids acts outside scope of corporation), Duty of Loyalty, Duty of Care.

*Texas Business Organization Code 22.221 – A Director shall discharge the directors duties including duty as a committee member in good faith and ordinary care.

*Liability – Individual liability – indemnification as stated in Articles of Incorporation and/or Bylaws – A director may not be accountable for a violation of his authority if he acted in good faith, upon legal or financial expertise.

Property Code Chapter 209.0051 - Open Board Meetings

*All Board meetings are open to all members.

*Board must be 72 hours notice prior to start of meeting via mail **or**, posting in location on Association property **or** by posting on website **&** email notice and agenda to those registered.

*A Board meeting is a deliberation between a quorum of Directors and where the Board takes action on issues.

*A Board may not, unless done in an open meeting for which prior notice was given to owners consider or vote on: fines, damage assessments, initiation of foreclosure actions, and initiation of enforcement actions(except for TRO's or threat to health or safety), increases in assessments, levying a special assessment, appeals from a denial for architectural control approval, suspension of a right, lending or borrowing money, adoption of an amendment, approval of annual budget, sale or purchase of real property, filling of a vacancy on the board, construction of a capital improvement (except repair, replacement or enhancement), and election of an Officer.

*Board meetings can be held by electronic or telephonic method where each board member may hear and be heard by every other board member, and owners may hear all Board members. The meeting notice must include the phone number to call and codes for members.

*Boards must keep written records of their meetings. Minutes need only include action items.

*Executive Meetings can meet to discuss a delinquent account or a noncompliant property owner provided that a summary is provided in the minutes of the regular board meeting.

Outside of the Associations documents there are other **Federal, State, County & City** regulations that play a part in governing your Association. Under Federal laws there is the Fair Housing Act, ADA, and the Fair Debt & Collection Act. Under State there is the Texas Property Code which changes in 2011 & 2015 altered how meetings are called and conducted. Under State there is also the Texas Business Organization Code and the Texas Transportation Code (Private Streets). Under the County and City there are ordinances that may apply

Property Code Chapter 209.005 – Association Records

*Dedicatory Documents are those that are recorded such as Articles of Incorporation, bylaws, CC&R's, and policies.

*Personal financial information, violation history of a member is confidential and may not be shared with any one other than the Board, Manager and the Attorney.

*Only the owners name and address can be released, no phone number or email may be released. Information on an employee is confidential.

*Deed Restriction reports that have no name or property identifier may be released.

*Board Policies must be recorded, if not they have no effect.

Property Code Chapter 209.0041 – Amendment of Documents

*CC&R's may be amended by 67% of the total votes allocated to property owners. If the declaration (CC&R's) contain a lower percentage than the lower percentage is used. In other words if the CC&R's state 50% (majority) than an amendment can be done using the percentage stated in the CC&R's to approve. (per the property code it is of property owners not lots.)

Property Code Chapter 209.00593 – Election of Board members

*Associations must 10 days before mailing notice of meeting, solicit candidates interested in running for a Board position. Must mail, post, or email to members the solicitation.

Property Code Chapter 209-00592 – Voting/Quorum

*Must be an absentee ballot or a proxy as an available way to vote.

- *You can take nominations from the floor.
- *Secret ballots are allowed if a member cannot cast more than one vote.

Property Code Chapter 209-0056 Notice of Election or Association Vote

- *Notice must be mailed 10 – 60 days prior to meeting date.
- *Vote taken outside of a meeting must have 20 days notice prior to counting of votes.

Property Code Chapter 209.0057 – Recount of Votes

- *Within 15 days after the day the vote was taken an owner may request a recount.
- *If the property owner requests the recount and the vote does not change – the property owner must pay for the cost of the recount.
- *Person counting ballots cannot disclose how a property owner voted.

Property Code Chapter 209.006 – Notice Required before Enforcement Action

*Prior to action a notice must be sent to the owner describing violation and state the amount due the Association for the fine or charge; and inform the owner that the owner is entitled to a reasonable period to cure the violation and avoid the fine; and that the owner may request a hearing on or before the 30th day after the date the notice was mailed to the owner; may have special rights or relief related to the enforcement action under federal law, including the Service members Civil Relief Act, if the owner is serving on active military duty.

Time limitations prevented the coverage of Collections – Please review the Texas Property codes for collection & Enforcement – check Chapter 209.0062 – 209.011. There is a four (4) year statute of limitations on collections. A lien remains valid until the statute of limitations expires on the underlying debt, which is four (4) years.

Rentals – You can require the landlord to provide a copy of the lease with no sensitive information shown. An Association **cannot** require that the Association approve rentals.
*The statute does not prohibit the enforcement of any rental or occupancy restriction contained in the Governing Documents.

Be on the look out for new legislation for 2017.

*Right now the ACC can appeal to the Board – legislative Bills may be filed that will change that. *There may be legislation to eliminate foreclosure

The meeting adjourned at 11:30 a.m.