

Per  
Page 5-

MINUTES OF ANNUAL MEETING OF  
MEMBERS OF BALLENA BAY TOWNHOUSE NO. 1  
SEPTEMBER 12, 1973

The annual membership meeting of Ballena Bay Townhouse Association No. 1 was held on September 12, 1973, commencing at the hour of 8:00 p.m., at the Galleon Restaurant, Alameda, California. The President of the Association, Mr. Ernest W. Townsend, presided. He advised the members present that, pursuant to the provisions of the By-Laws, more than seven (7) days' notice of the meeting had been mailed to all members of the Association. The President then requested approval of the minutes of the annual meeting of September 13, 1972, which had been hand delivered to all members on October 6, 1972. A motion was made by Mr. Ted Ingham and seconded by Mr. Ray Lilywhite. Motion carried.

It was noted that with proxies, 53 members were represented, more than necessary for a quorum.

President Townsend then introduced the remaining members of the Board:

Dr. Charles Gallup

Mr. Robert Selmer

Mr. Duncan Tonningsen

Mr. James Price (who was appointed by the Board to replace Mr. Wm. Kirkland upon his resignation)

President Townsend then presented the activities of the Board over the past year covering roofing, breakwater and landscaping. Dr. Gallup has been the member of the Board that has supervised the landscaping maintenance according to a schedule which was presented in March 1973. Dr. Tonningsen has taken on the responsibility of overseeing the schedule on the maintenance of the houses and Mr. Selmer and Townsend have been the letter-writers. Mrs. Clara Bowler, who volunteered to serve as the Association's bookkeeper, was introduced.

In the discussion on the breakwater, it was pointed out that the docks on the Tideway side have been destroyed in two different locations and the Board was unable to give any definite statement as to when they would be repaired. In order to get permission to construct the houses on Tideway, Pan-Pacific and BC-DC entered into an agreement in 1971 agreeing to certain

Mr. Andrew Elliott by Jack Coker

Mr. Dougal McDonald by Warren Quan

Mr. Robert Selmer by J. H. McQuilkin

Mr. E. W. Townsend by Mr. Al Schurek

Mr. Gary Robinson by Jim Price

Dr. Charles Gallup by Mr. Maynard

Mr. Duncan Tonningsen by Beverly Partridge

Mr. Jack Coker moved that the nominations be closed; it was seconded by Jim McGrew. Motion carried.

A ten minute intermission ensued.

The committee to tally the votes was Mr. Heiko DeMan, Mr. Garvin Tutt and Mr. Warren Quan. The following were elected to the Board of Directors for 1974:

Mr. E. W. Townsend

Mr. Robert Selmer


Mr. Andrew Elliott

Mr. James Price

Mr. Dougal McDonald

Mr. Warren Quan offered his facilities on Heggenberger Road for the meeting room. Mrs. Doris Anderson gave thanks to the Board of Directors for the past year's service.

The 1973 Annual Meeting was declared closed.



garage and run over to the side to relieve the water pressure. The extra cost for the drain and pipe would be somewhere between \$75 and \$80 per installation.

There was considerable discussion on areas of responsibility, donations, assessments, legal action and financing. At the conclusion of this lengthy discussion, Mr. McQuilkin moved that the flat roofs on the entire 44 older townhouses be repaired in the manner described by Mr. Selmer. Financing is to be accomplished by payment from the Townhouse Association of as much money as is available from present funds and an assessment of the remainder to the entire 80 homes of the Townhouse Association. The motion was seconded by Jack Coker and was carried unanimously.

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Mr. John Russell then made a suggestion that in the future we share in everything in accordance with the Covenants and By-Laws and that immediate attention is needed on the docks in the Tideway area. Mr. Selmer pointed out that the docks will keep breaking up until the breakwater is extended. Mr. Russell pointed out that the dock can be repaired and it would take approximately \$1,000. The same surge barrier that is across the way with the pilings can be put in for about \$1,500. The President stated that it was their intention to repair the dock, but wanted to do it in the proper manner. Mr. McDonald made a motion that the docks should be included in the inspection meeting of September 27th. It was seconded by Mr. Schurek. The motion was carried. The motion was: In the meeting between the Board and the gentleman from Pan-Pacific on September 27, 1973, that you invite him to visit the site and inspect the dock and that you take sufficient photographs in its present condition to show any court of law, that it be confirmed in writing; that we consider the damage to be the result of their failure to carry out the plans set forth in the agreement with BC-DC, and that Pan-Pacific be advised they will be held liable for this damage and any further damage to the docks; this to be put in writing and that the Association intends to repair the docks in ten (10) days if they have not done so.

President Townsend then explained cumulative voting and opened the floor for nominations for the 1974 Board of Directors. The following nominations were received:

Mr. James Price by Jack Coker

The gardener is going to replace the irrigation system on the Tideway side. The cost will be absorbed by the Association. The people on the Island side were asked to irrigate the areas that didn't have a sprinkler system. There will also be some replanting done on Tideway to fill in the sparse areas. Mr. John Russell inquired about the gardening in the circle at the west end of Tideway and if the irrigation system could be extended to that circle. Dr. Gallup pointed out that we do not have jurisdiction over that section—it is City property. Mr. Russell said that if you go to the City that it shows as the property of the homeowners and he would be glad to furnish a map. Mr. McQuilkan asked that the Board look into this section. Mr. Price pointed out that BC-DC's agreement stipulates that this section will be landscaped. A show of hands indicated general dissatisfaction with the landscaping and the Board will take appropriate action.

Duncan Tonningsen gave a review on outside maintenance. He said the Board would like to work within the \$40 per month budget, and have attempted to follow the schedule presented at the March meeting. They have treated all the decks on the Island side with water sealer; have painted all the front doors and fixed up the gangways. They are now starting the chimneys and have completed 8 as of today. The next item will be the trim. It is necessary to get to the trim on the old side. The budget at the present time, on a three-year schedule, will take care of both sides.

Mr. Gary Robinson brought up the question about the property line on Tideway Street and their problems on parking. He stated, the original covenants declare guest parking will be provided on Tideway, but it has now been taken over by the apartment dwelling. Because it is a private street, something has to be done by the Association. Mr. Robinson also stated there had been a discussion about forming their own Association. Mr. Price suggested that they might be able to have the curb painted red. He urged the Tideway owners to park their own cars off the street and see if an agreement could be reached with the apartment in regard to the parking. The joint agreement that we now have with them is only a maintenance agreement for the

conditions as to extending the breakwater, construction of a park at the east end of Tideway, etc. These have not been fulfilled at the moment. The Board felt that the first step is to get the breakwater extended for the 115 feet before attempting to repair the docks. The agreement states that work is to commence 30 days after they receive the necessary approvals and it is to be completed 120 days after commencement.

Dougal McDonald pointed out Pan-Pacific could be liable for the break-up of the docks due to the tide and currents; this should be pursued.

Mr. Bowler brought up the statement made by Mr. Kirkland that the docks would withstand 4 feet waves. Several other discussions followed, including Mr. Gary Robinson's opinion that some money should be spent on legal advice before the time limit runs out. The Board has not wanted to take legal action without discussion with membership.

Jack Coker made a motion that we take legal action on the plan and it was seconded by Jim Price. A vote was taken on the motion authorizing the Board of Directors to take legal action if necessary, and carried with four exceptions. Mr. Hako DeMan stated that after having the breakwater extended, it was the first time his dock broke up. Mr. Selmer gave a short review on the extensive engineering studies that had been done before the island went in; BC-DC was not in existence then. The only caution was that the width of the channel should remain the same.

Mr. John Russell commented on the danger of the broken docks on Tideway and asked about the insurance and our liability coverage. The docks on the Tideway side were included in the one-year warranty. Huntington was the builder as a sub-contractor to Pan-Duc. In the first years on the Island side a settlement of \$7,000 was made to Pan-Pacific for the repair of the docks. A discussion followed as to how to obtain the right attorney.

The next item brought up on the agenda was maintenance. The landscaping was reviewed by Dr. Gallup. The landscaping was done by Reliable Gardening. In June the landscaping on the Tideway side was inspected and found to be in accordance with the specs and it was accepted by the Association. A problem has developed on the irrigation system (poorly installed and not buried deeply enough) and the sprinkler heads are too close to the driveways and curbs.

Hyerle was recommended as legal counsel and was retained for some advice.

Further recommendations will be considered for a permanent attorney.

Insurance was discussed, pointing out the increased coverage and the reduction in annual premium. President Townsend led a discussion of rental and leasing of homes in our Association. Our covenants state in Article XI, Section 1: (a) Each residence lot shall be used as a single family residence and for no other purpose. The Board proposed to change the covenants by adding: "The occupancy of each unit shall be limited to the owner of such unit, his family and guests (without compensation) and tenants or lessees for a term of not less than (1) month." This would eliminate the renting of the property by the day, week or weekend. Since there were only 53 members present, it is necessary to obtain 7 more approvals; the President asked that each person sign his name to the sheet passed around. The motion to change the covenants with the above addition was made by Mr. McQuilkin and seconded by Mr. A. Elliott.

A question was raised about coverage for children crawling on the decks and if we have the right insurance and also what we can do to discourage such activities. The Alameda Police Department suggested that we post "No Trespassing" signs at the places where there is access to the dock areas.

The President then opened the discussion on the roofs of the older side, but said there will also be problems on Tideway. Considerable repair work has to be done on the roofs. The Board has had three roofing companies inspect the roofs and have had an official report by Divesco. It was their opinion that there was considerable work to be done on the flat portions. The Board obtained bids from the three companies for the 44 townhouses and recommended the bid from Atlas at 35¢ per square foot. There is approximately 60,000 square feet on the flat roof portions.

Bob Selmer then explained the procedure. They would take off all the gravel they could, cut the blisters, patch and nail; put a dual 80 roofing section, two layers of felt hot mopped in. The upper flat roof to be done with a reflective coating so as to not add additional weight. The lower garage roof would have the gravel put back on. Regarding the water that collects, it was suggested that a drain be installed and a pipe be put in the