

Mike Scholtes, regarding the fact that certain homeowners have indicated they will not allow workmen on their property to make repairs. He stated that he has drafted a letter to be sent to the owners of the units which are scheduled for work, and has sent the letter to Mr. Scholtes for his review. Mr. Noble stated that Mr. Scholtes has indicated he would be prepared to draft a second letter if there is any negative reaction to the first, and that a court order to proceed can be obtained if the homeowner attempts to interfere with the progress of the work.

#### OLD BUSINESS

1. Pile Replacement Bids - Mr. Noble reviewed the bids received from Mid/Cal Construction (\$51,235) and Estuary Pile Driving Service (\$29,864.82). He stated that Estuary Pile Driving Service carries only \$300,000 (bid package requested \$1,000,000) in workers' compensation insurance, and that the contractor could obtain that amount of insurance, but he would add \$4,000 to the contract price. Mr. Noble stated that workers' compensation insurance is not particularly applicable in this instance as the owners (two partners) are the only employees. He stated that the contractor wants to accomplish the work on Saturdays and Sundays, although the specifications state that the work will be accomplished on Mondays through Saturdays.

Mr. Stone explained that Curt Bolton of Estuary Pile Driving Service was contracted to build and now manages the Grand Marina, which is a top class marina, but that Mr. Bolton is therefore only available to work at Ballena Bay on the weekends. He stated that Mr. Bolton has explained that the dredging and pile work are related, and should be done concurrently.

MOTION: It was moved, seconded and passed to accept the bid of Estuary Pile Driving Services for \$29,864.82 for pile replacement work, with current insurance.

MOTION: It was moved, seconded and passed to hire Curt Bolton on a time and materials basis for marine work as needed, within the amounts budgeted for marine repairs.

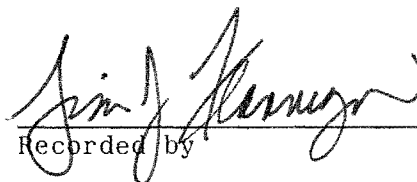
Mr. Stone reported that the Mr. Bolton is performing a survey of the floats, which should be complete within a week.

#### ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 9:30 p.m. The next meeting will be held on April 12, 1990.



Secretary

  
Recorded by

BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF FEBRUARY 8, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by Vice President Marty Gross at 7:40 p.m.

ATTENDANCE

Present were Andy Hall, Marty Gross, Marcia Gerin and Archie Stone. Also present were Rich Noble of Noble Community Management and homeowner members Ruth Masonek, Robert Descombes, Chuck and Shep Gallup, Joan Albin, Agnes Ringo, Jim and Audrey Ehrlich, Jim and Mary Neil, Mel Schwartz, Ray and Eloise Lillywhite, John and Florence Vickery, Pat and Gloria Patterson, Merrill Thruston, Sally Tonningesen, Tom Williams, Phyllis McGrew, Jack Coker, Jack Likins, Debra Reinking and Scotty Foulds.

MINUTES

Two corrections were noted to the minutes of the January 11, 1990 meeting.

MOTION: It was moved, seconded and passed to approve the minutes of the January 11, 1990 Board meeting as corrected.

TREASURER'S REPORT

Andy Hall reviewed the financial statements and reported that, in view of the special assessment, at the end of January the Association is in much better financial condition than it has been for a long time. He stated that other assets include the \$15,000 bond, assessments receivable of \$19,600, special assessments receivable of \$18,000 and prepaid insurance of \$10,800. Mr. Hall stated that he has received the audit report and completed tax returns, and that the Association owes very little in taxes as estimated tax payments were made during the course of the year and in light of the fact that the Association no longer has an employee.

MOTION: It was moved, seconded and passed to approve the Treasurer's Report.

In response to a question, Mr. Hall stated that over half the members have paid the first installment of the special assessment.

MANAGER'S REPORT

Mr. Noble reported that the Board should review the annual financial report and contact him with comments or questions before the end of the month, after which time he will have statements copied and mailed to the general membership.

Mr. Noble reported that he has requested bids from Estuary Pile Driving Services, Mid/Cal Construction and Western Dock Enterprises for the replacement of 29 pilings based on the survey of the Waterside Maintenance Committee. He stated that Western Dock has since advised him they will be unable to bid due to equipment availability, and that they had expressed concern that permits from the Bay Conservation and Development Commission (BCDC) would be necessary. Mr. Noble stated that an unsuccessful attempt was made to widen the field of bidders.

Mr. Noble stated that at the previous meeting Mr. Descombes had given him a copy of a letter he had received from Mr. Bill Brown of Central Bay Roofing. Mr. Noble stated that the letter included an attachment from the roofing manufacturer claiming that they were cancelling the warranty due to the fact that modifications have been made to the roof. Mr. Noble stated that the building in question is the one where major renovation was undertaken recently, and that Mr. Brown had previously inspected the modification and indicated he was satisfied with the work that had been done, and in fact indicated that Central Bay's guarantee is still in effect unless the leaks are a result of the new work. He stated that he discussed with Mr. Brown the possibility of setting up an inspection with Evanite the next time they have a representative in the Bay Area in order to have this matter resolved. Mr. Noble stated that, although he feels the warranty may be of little value, he must go on record that, without proper Association records which identify the roofs which are under warranty and by what contractors and/or manufacturers, he will not accept the responsibility for cancellation of the warranty.

Mr. Noble stated that he has not had an opportunity to research and develop a resolution regarding the parking issues discussed at the last meeting.

Mr. Noble stated that the fence which runs along the property into the water adjacent to 300 Tideway has deteriorated, and that he has been advised that fishermen have been entering Ballena Bay Townhome Association property to fish. He stated that he had received an estimate of \$1,080 from Alameda Fence Company to replace a 40-foot section of the fence, and has also solicited a bid from Tim McNeil which he has not yet received.

Mr. Noble called members' attention to the list of recent work orders regarding roof leaks and repairs contained in his Manager's Report, and Mr. Stone commended him on the timely and useful information.

Mr. Stone asked whether Mr. Noble had spoken with Sally Tonningsen, and Mr. Noble stated that he had not, but that he had left a message for her and had been able to obtain access and examine the pilings. He stated that he discovered one piling is missing, and has asked Mr. McNeil for a bid on replacement of the rotted handrails. Mr. Noble stated that he would meet with Central Bay regarding that building, and has asked them to contact Ms. Tonningsen regarding the leak she reported and to look at the garage muffling.

MOTION: It was moved, seconded and passed to accept the Manager's Report.

#### COMMITTEE REPORTS

1. Home Maintenance and Architecture - Archie Stone reported that the committee has now been formed of five members, one from each block except for the 500 block of Tideway as they are in a transitional stage. He stated that they will be represented on the committee if they do not secede from the Association. Mr. Stone stated that Bob Descombes, Jack Likins, Jeff Frankel and Jim Ehrlich, the members of the committee, met on the previous Sunday morning to look at the colors which had been recommended by the previous Architectural Committee and approved by the Board. He stated that a tough question remains of deciding which units will be painted which of the five sets of colors.

Mr. Stone stated that work on the landings would begin next week, and should be completed by the beginning of April. He stated that next the work on the first group of homes would begin, commencing around April 1st and continuing through approximately October 1st. In response to a question, Mr. Stone explained that he has inspected each of the landings and given Tim McNeil a prioritized list of the work to be done. He stated that all rotted boards will be replaced and loose boards nailed in place, and that there are no landings which require full redecking. Mr. Stone stated that some of the ramps are in poor condition and will be reconditioned.

2. Landside Maintenance - Marty Gross reported that he has received three bids for tree pruning and removal: Elite Tree - \$3,525; Diamond Tree - \$3,725 and Bay Area Tree - \$3,000. He stated that he has determined the acacia tree at Mr. Thruston's home should be left intact and that he assumes the cost of the work will be reduced accordingly. Mr. Gross stated that the planned work includes: removal of a pine tree growing between a cypress and another pine tree near Mr. Thruston's home; removal of a eucalyptus alongside Terry Klaus' home and a smaller eucalyptus in front of Mr. Klaus' home; removal of two dead cypress trees and shaping of the remaining cypress; removal of an acacia tree inside the storage area which would impede removal of the storage container; removal of two pine trees at the front of Pat Hayes' home; and pruning of pine at 455 Cola Ballena to stop it from leaning on the fence and eaves. Mr. Gross explained that the work will also include minor pruning of dead wood and crossing branches, grinding out of stumps after trees have been removed, and shaping of trees throughout the development. He recommended Diamond Tree, as he has experience with their work.

There was discussion of the bids.

MOTION: It was moved, seconded and passed to adopt the recommendation of Mr. Gross and accept the bid of Diamond Tree.

Mr. Gross stated that the landscape contract with Sundance has come up for renewal, and recommended that bids be solicited from other landscaping companies. There was no objection, and Mr. Noble was asked to solicit bids for presentation at the next Board meeting.

Shep Gallup stated that, in cleaning up the area near Cola Ballena and Ballena Boulevard, she had removed beer bottles which contained a substance which smelled like gasoline. She suggested that there may be a relationship between the substance and the dying plants in that area. Mr. Noble will ask the gardener to take a soil sample from the area and have it analyzed.

Sally Tonningsen asked whether the area of the trees along the waterfront which do not belong to the Association will be cleaned up, and Mr. Gross stated that he would call the Harbormaster and ask to have it cleaned up.

Mr. Gross stated that Hans Boekenkamp from Porta Ballena had called and claimed that the Association is responsible for maintaining a section of road between the condominiums and the townhomes. He stated that he requested more information, and offered to provide his phone number to Mr. Stone so that he could request a copy of any agreement pertaining to the matter.

Mr. Gross reported that he had called Ray Davenport of AA Container, who offered to pick up the container and pay the \$1,000 for it. Mr. Stone stated that he and Mr. Gross had surveyed the contents and sorted out what is garbage and what is worth keeping. There was discussion regarding disposition of the container and its contents.

MOTION: It was moved, seconded and passed to either move the container to another site or to get rid of the container and store the valuable contents elsewhere, whichever alternative is most economical, and then to clean up the area.

3. Waterside Maintenance - Jim Neil stated that two proposals for dock modifications have been submitted to the committee for action, one from Bob Loh and one from Mel Schwartz. He stated that the committee has reviewed the proposals and makes no specific recommendation for Board action. Mr. Neil and Mr. Stone explained the nature of the proposals.

MOTION: It was moved, seconded and passed to approve Robin Loh's request to make changes to the water and electrical service at 441 Cola Ballena.

MOTION: It was moved, seconded and passed to approve Robin Loh's request to expand his deck six feet, including resurfacing the entire deck and removing the wood rail caps to enhance the view, in conformity with code height requirements.

Mr. Stone explained that four homeowners at 441 - 447 Cola Ballena have requested approval of a plan to extend one dock to match the surrounding docks and widening of all the docks by twelve feet. There was extensive discussion regarding the proposal, and the matter was referred back to committee for further study. Mr. Gross requested that the committee conduct its investigation and report back to the Board in a timely fashion.

MOTION: It was moved, seconded and passed to approve the proposal of the homeowners at 449 to 455 Cola Ballena to lengthen one dock finger and widen the bases of two of the docks.

Mr. Stone stated that the approval notification should stipulate the plan is accepted on the basis of the sketches submitted, the fact that all neighbors have no objection, and the understanding that only two of the pilings will be replaced at Association expense as they were slated for replacement.

Mr. Stone stated that Terry Klaus has been pursuing the issue of dredging permits with the U. S. Army Corps of Engineers and the BCDC, and has determined that a permit will be necessary. Mr. Stone stated that he had talked with consultant Mike Cheney, who felt the application process should be very straightforward for the Association, but who would advise on what steps to take as needed. Mr. Stone stated that he would be in contact with the Regional Water Quality Control Board to determine whether they require soil samples.

Mr. Neil stated that the committee had discussed the floats and would be receiving an estimate for floats which need to be replaced. Mr. Stone stated that the first issue is removal of the unwanted floats, but that the committee needed an idea of

what the floats might be worth. He stated that they had asked Curt Bolton, a marine contractor and builder/manager of the Grand Avenue Marina, to submit an estimate of the cost to perform a detailed inspection of the floats and preparation of a professional report on the status of the floats. Mr. Stone stated that Mr. Bolton forwarded a quote of \$800 to \$1,300.

MOTION: It was moved, seconded and passed to contract with Curt Bolton to survey the docks and floats and prepare a plan for rehabilitation at a cost of \$800 to \$1,300.

Mr. Neil stated that bids have been solicited for repair of the pilings. He stated that the landing pilings on Cola Ballena and Ballena Boulevard only have one piling each for support, and the committee is considering redoing these in concrete rather than replacing the wooden pilings. Mr. Neil stated that the cost to take the landing out, drive a wooden piling, replace the headfloat and move the boats would probably be about the same as to wrap the piling in concrete, but that the committee had not obtained a quote for driving concrete pilings. Mr. Neil stated that the committee had priced new floats, and the cost is \$20.00 per square foot, but that Curt Bolton is willing to sell excess floats from Grand Avenue Marina for \$8.00 per square foot. Mr. Neil stated that the Association has a quantity of surplus brown paint, and recommended that the area under the landings be painted to increase useful life.

#### RESIDENT'S TIME

Tom Williams requested that a decision on Mr. Loh's proposed deck work be expedited.

Jack Likins stated that he had sustained damage to the cement piling which supports his home, and asked who was responsible for the repairs. Mr. Stone stated that the homeowner carries that responsibility.

Sally Tonningsen stated that she was concerned regarding street cracks on Cola Ballena. Manager Rich Noble was asked to investigate.

#### WRITTEN CORRESPONDENCE

1. Letter from Jack Coker Regarding Roof

Mr. Stone stated that Mr. Coker had requested the Association pay for his roof, and that he had written a response to Mr. Coker, which he accepted.

2. Letter from Bill Maynard Regarding the Special Assessment

Mr. Stone stated that Mr. Maynard wrote to say that he is paying his assessment under protest because he feels it covers items for which the Association should not be responsible.

3. Letter from Jerry Rasco

Mr. Stone stated that Mr. Rasco had written reiterating complaints he had previously expressed to the Board.

**NEW BUSINESS**

1. Letter from Chatzky, Fong and Fong Regarding Insurance

Manager Rich Noble explained that Mr. Scholtes of Chatzky, Fong and Fong (the Association's attorney) had written to inform the Board that Travelers Insurance has agreed to defend the Association in the cross complaint filed by Mr. Gutleben.

**OLD BUSINESS**

1. Tideway Drive Secession


Mr. Stone stated that the balloting had taken place, and that 71 ballots had been cast, 63 in favor of the secession and 8 opposed. He stated that those figures do not represent the necessary 75% in favor needed to pass the measure. Mr. Stone explained that the action was never a Board matter, and he was not sure what further action the Tideway group would take now.

2. Selection of Colors for Homes

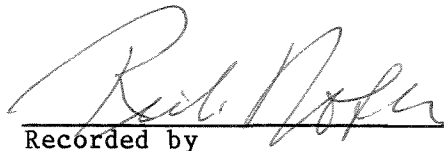
Mr. Stone stated that the Architectural Committee had selected 5 sets of colors last year and recommended them to the Board, which had approved the colors at its September, 1989 meeting. He stated that this year's committee is planning implementation of that decision, and the next decision is how to select which set of colors will be used on each group of homes. Mr. Stone explained what he felt were the two alternatives for addressing the issue. There was discussion regarding the alternatives, as well as the selection of the sets of colors. It was decided that homeowners were welcome to bring specific suggestions regarding implementation of the 5 sets of colors to the Board at its next meeting, and the Board would consider, accept or reject the suggestions.

**ADJOURNMENT**

There being no further business before the Board, the meeting was adjourned at 10:15 p.m.



Secretary



Recorded by

BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF JANUARY 11, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by Vice President Marty Gross at 7:35 p.m.

ATTENDANCE

Present were Andy Hall, Marty Gross, Marcia Gerin and Archie Stone. Also present were Rich Noble of Noble Community Management and homeowner members Jean Maynard, Ruth Masonek, Robert Descombes, Chuck and Shep Gallup, Joan Albin, Agnes Ringo, Jim and Audrey Ehrlich, Jim and Mary Neil, and Mel Schwartz.

MINUTES

MOTION: It was moved, seconded and passed to approve the minutes of the December 13, 1989 Finance Meeting and the Board Meeting of the same date.

TREASURER'S REPORT

Treasurer Andy Hall reported that an accountant has been engaged to perform the audit and prepare the Association's tax returns, which he hoped to have completed by the next meeting. He explained that the format of the financial statements will be a little different next month, as Kathy Noble will convert to the format she usually uses, which she had deferred until the beginning of the new year as she had taken over the accounting mid-year.

MOTION: It was moved, seconded and passed to approve the Treasurer's Report.

MANAGER'S REPORT

Mr. Noble reported that the earthquake damage to the road at the west end of Tideway has been sealed, and Mr. Stone stated that his investigation reveals it to be fine.

Mr. Noble stated that he and Mr. Stone had met with Tim McNeil Nicely Done regarding the quote for repairs to the homes, as their quote had seemed excessive in comparison to the original building which had been repaired. He stated that they had discovered Mr. McNeil had estimated for cost to replace in instances where items could be repaired, and Mr. McNeil has agreed to rework the bid in accordance with the understanding that Mr. Noble and Mr. Stone conveyed at that meeting. Mr. Noble stated that it is expected that the quote will come back with an amount more in keeping with the average cost per unit of the units already repaired.

Mr. Noble stated that he had met with Mr. Stone and Mr. Neil regarding the dock repairs, and that Mr. Stone and Mr. Neil would cover the details later in the meeting.

Mr. Noble reported that the car at the end of Tideway has been removed, and that he has instituted garbage pick up for the garbage cans near the public access area at that end of the street.



BALLENA BAY TOWNHOME ASSOCIATION  
BOARD OF DIRECTORS MEETING  
DECEMBER 13, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by President Archie Stone at 8:50 p.m.

Present were Archie Stone, Jim Ehrlich, Jeff Frankel and Mel Schwartz. Absent was Jim Neil. Also present were Rich Noble of Noble Community Management, Ida Stone, Mr. and Mrs. Kenyon, Joan Albin, Ruth Masonek, Carl Wohltmann, Audrey Ehrlich, Shep and Chuck Gallup, and Merrill Thruston.

MINUTES

1. Minutes of the November 1, 1990 Board Meeting - There were no corrections.

MOTION: It was moved, seconded and passed to approve the November 1, 1990 Board meeting minutes as submitted.

2. Minutes of the November 8, 1990 Board Meeting - There were no corrections.

MOTION: It was moved, seconded and passed to approve the November 8, 1990 Board meeting minutes as submitted.

PRESIDENT'S REPORT - There was no report.

TREASURER'S REPORT

Mel Schwartz reviewed cash expenses and financial statements for the period ending November 30, 1990. He noted that liens have been placed on two homes for delinquency in payment of the special assessment, and that a total of \$19,900 which was received from four families in prepayment of their special assessments is included in the cash on hand. Dr. Schwartz suggested that \$2,418.87 in delinquent dues and late fees owed by the Great Sierra Group be written off as uncollectable and deleted from the assets of the Association. President Stone stated that it would be appropriate for the Treasurer to so direct the Manager. Dr. Schwartz also reported that there remains an outstanding bill for painting of 300 - 314 Tideway in the amount of \$14,600. Dr. Schwartz summarized that \$31,286.75 was expended for Waterside Maintenance, \$13,455 for Landside Maintenance, and \$197,292.90 for Home Maintenance and Repairs, for a total of \$242,034.65 in expenses from the special assessment worksheet.

Dr. Schwartz recommended that the Board adopt an Assessment Delinquency Control procedure, and Mr. Frankel read the proposed procedure into the record (copy attached).

MOTION: It was moved, seconded and passed to adopt the assessment delinquency control procedure.

MOTION: It was moved, seconded and passed to open a Dreyfus World Wide Money Market Account when funds are available for transfer.

MANAGER'S REPORT

1. Building Renovation Project - Mr. Noble reported that Nicely Done has completed work on 342, 346, 350 and 352 Tideway, and painting is anticipated to begin the last week of December or the first week of January.

2. Townhouse Parking - Mr. Noble reported that warning notices have been prepared, an introductory notice and a final courtesy notice, and that he has issued copies to Jim Ehrlich. He reported that a letter has been sent to the Alameda Police Department authorizing the citation of vehicles illegally parked at BBTHA, along with names of those with authority to request citations or arrest of trespassers.

President Stone read the letter to be sent by Manager Rich Noble to all residents and members of Ballena Bay Townhome Association regarding parking.

MOTION: It was moved, seconded and passed to direct Manager Rich Noble to enforce rules for storage in common areas effective immediately.

3. General Information - Mr. Noble called Directors' attention to the correspondence addressed in his written Manager's Report.

#### COMMITTEE REPORTS

1. Home Maintenance and Architecture - Archie Stone reported that the request of Lloyd and Gloria Patterson, 409 Cola Ballena, to lower the dividing wall between the decks of their home and their neighbor's home (411 Cola Ballena) had been reviewed and inspected by the Architecture Committee (Archie Stone and Bob Descombes). He stated that the neighbors have agreed to the change and the Committee found that the change is not in any way objectionable, and therefore recommended that the Board approve the request.

MOTION: It was moved, seconded and passed that the Board adopt the recommendation of the Architectural Committee to approve the request of Lloyd and Gloria Patterson to lower the dividing wall between their deck and their neighbor's deck.

2. Waterside Maintenance - Carl Wohltmann reported that Curt Bolton is on vacation and will not return for two weeks, and that Mr. Bolton's work is incomplete. He stated that the Committee recommends that no further payments be made to Mr. Bolton until the work is completed to the Committee's satisfaction. Mr. Wohltmann stated that several floats need emergency repair, and that the Committee is considering effect temporary repairs and have final repairs made after the dredging has been completed in the spring. He stated that cables holding the floats on the Tideway side need some repairs. Mr. Wohltmann stated that the Committee has reviewed Andy Hall's suggestion for repairs to some of the floats in his head-float, and recommends Board approval. He stated that Mr. Gutleben had made a suggested dock change, and that the Committee recommends Mr. Gutleben's proposal be denied.

President Stone stated that Mr. Hall's proposal is rather complex, and recommended that the Committee do more research before taking action. He requested that the Committee study the cost, whether the repairs can be done on a temporary basis, and whether the problem is the result of a need for dredging. There was discussion regarding how such an arrangement might be useful in funding home maintenance and repairs, and Mr. Frankel cautioned the Board to be careful in considering such a proposal. Discussion of the matter was tabled.

Mr. Noble stated that he had seen Mr. Bolton on the site on the two days previous to the Board meeting, and that Mr. Bolton is requesting payment for the remainder of the work which has already been completed. He stated that he had spoken with Mr. Neil, who stated that he felt that, as Mr. Bolton had come out to the site

since the Committee met to make its recommendation, Mr. Bolton should be paid that portion. Mr. Wohltmann stated that he felt Mr. Bolton should not be paid anything more until he completed all the work. Mr. Noble explained that the amount Mr. Bolton is now requesting is the remainder of the payment for extra work requested by the Association and not included in the original contract. No action was taken.

3. Finance, Insurance and Legal - Dr. Schwartz reported that the Association's earthquake insurance covers the horizontal concrete foundation slabs and anything above that, but not the vertical concrete piles or the docks. He stated that the docks are covered under another policy for fire damage. Dr. Schwartz stated that the earthquake insurance policy is \$7,000,000 for all 80 homes, and that each home is valued for this purpose at \$87,500. He explained that if 20 homes were demolished in an earthquake and it costs \$300,000 to rebuild them, the policy would cover the cost to replace the home. Dr. Schwartz stated that the policy features a 10% deductible, and that the Board feels the entire Association should share the deductible. He stated that the Board recommends, in the event the CC&R's are ever amended to allow the Association to assess individual homeowners the cost of the deductible, that each homeowner obtain loss assessment coverage through their own insurance agent to cover earthquake deductible assessments.
4. Neighborhood Communications - Jeff Frankel reported that the first issue of the newsletter had been sent out and solicited submission of items of interest to residents. He stated that the newsletter will continue to offer free, noncommercial classified ads, space permitting.
5. Landside Maintenance - Jim Ehrlich reported that work is underway to repair the sidewalk at Pat Hayes' home, and that the roots which were removed from under the sidewalk were very large, possibly portending more problems in the future. He stated that he had inspected the problem with the roots of Joan Albin's myoporum tree, and that he will attempt to do the work himself in his spare time.

He stated that he had contacted United Cable twice regarding the exposed conduit under the bridge near Terry Klaus' home. Mr. Ehrlich stated that, while United Cable was not terribly forthcoming or pleased to discuss the matter, they had indicated they plan to extend the system out to the end for the new hotel/office complex after the first of the year, at which time they would correct the problem. He stated that he would follow up with them.

Mr. Ehrlich stated that the Committee is considering suitable sites for the tree that has been anonymously donated in memory of Rosetta Christie, and that the Committee would welcome any suggestions of sites. He also reported that the Committee is following up regarding enforcement of the CC&R provisions regarding storage in the common areas.

Mr. Ehrlich stated that he had received a letter from Dewey Bargiacchi regarding two trees in front of his home which are dropping debris into his hot tub and requesting that they be removed. He stated that he had spoken with Mrs. Bargiacchi and will follow up on the matter. Mr. Ehrlich stated that the main problem is funding for tree removal, and that he had prepared a resolution for the Board's consideration, which he read. There was discussion, and President Stone asked for input from residents on the topic.

MOTION: It was moved, seconded and passed that homeowners who object to an offending tree may, after receiving the consent of the Landside Maintenance Committee, remove or cause to have removed said tree. The tree must be replaced by a tree approved by the Committee, and both removal and replacement shall be at the homeowner's expense.

#### RESIDENTS' TIME

Chuck Gallup stated that it was his understanding that United Cable, when it originally brought in the cable, wanted to put it under the street, but Ian Roger had insisted it be put under the homes. He asked whether, when they extend the cable out Ballena Boulevard to the new hotel, they might prefer to place it in the street as they had originally intended. Mr. Frankel stated that it would make sense for the new cable to be run along the street, but that it would be difficult to move the existing cable from running under the homes to the street. Mr. Ehrlich stated that he would investigate. Mr. Noble stated that he had written to United Cable regarding the old green "refrigerator" cable boxes which remain on the property, as they had removed the boxes in other locations when they had installed the new system in the rest of Alameda. He stated that they had responded that for some reason they had to leave the boxes at Ballena Bay in place.

Shep Gallup stated that she had been informed by Hans Bodenkamp that the street light at the intersection of Cola Ballena and Porta Ballena will be down for several months while a new, prototype conversion system is tested in that location. President Stone asked Mrs. Gallup to write an article on the topic for the next newsletter, and stated that he would have Mr. Ehrlich communicate with Mr. Bockenamp on the matter.

#### WRITTEN CORRESPONDENCE

1. Letter from Agnew & Codiga Realty Co. Re: 342 Tideway Drive - President Stone stated that the letter is a complaint that the owner of 342 Tideway Drive has been unable to sell his home due to the unsightly sailboat and debris visible at 340 Tideway Drive. He stated that he would write a letter to the owner of 340 Tideway regarding the matter, and explained that this matter would fall under the CC&R regulations regarding storage in the common area. President Stone further stated that he and Manager Rich Noble would work together to resolve the problem. Mr. and Mrs. Kenyon, Jeff Frankel and Jim and Audrey Ehrlich all stated that they had looked at 342 Tideway Drive and decided not to purchase that unit for the same reasons as stated in the letter. President Stone stated that he would also respond to the letter from Agnew & Codiga.
2. Letter from Attorney Mike Scholtes Re: Ballena Bay Townhouse Assn. v. Gutleben and Related Cross-Complaint - President Stone stated that Mr. Scholtes does not recommend approval of Mr. Gutleben's proposal for changes to Mr. Buono's dock.

MOTION: It was moved, seconded and passed to disapprove Mr. Gutleben's proposal to extend Mr. Buono's dock 80 feet.

President Stone stated that he will send a written reply to Mr. Scholtes.

NEW BUSINESS - There was none.

**OLD BUSINESS**

1. Consideration of ByLaw Amendment to Limit Directors' Terms - Mr. Ehrlich read the proposed resolution (copy attached).

MOTION: It was moved, seconded and passed to recommend that the membership consider an amendment to the ByLaws providing that no member of the Board of Directors shall serve more than two consecutive one-year terms, following which he or she may not be re-elected until a period of one year has elapsed.

2. Consideration of CC&R Amendments - President Stone stated that the Board was considering CC&R amendments for three purposes: (1) to permit assessment of entire membership for insurance deductibles applying to individual homes or buildings; (2) to require any member who sues the Association to reimburse the Association's legal fees in the event the plaintiff does not prevail; and (3) to reduce the number/percentage required for approval of amendments to the CC&Rs. There was discussion.

MOTION: It was moved, seconded and passed to appoint a committee to study the CC&Rs with the goal of bringing them up to date.

President Stone asked Jim Ehrlich to chair the committee, and he accepted.

**ADJOURNMENT**

There being no further business before the Board, the meeting was adjourned at 9:55 p.m.

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Secretary

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Recorded by

BALLENA BAY TOWNHOME ASSOCIATION  
ANNUAL FINANCE MEETING  
DECEMBER 13, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by President Archie Stone at 7:30 p.m. President Stone welcomed members to the annual finance meeting and explained the purpose of the meeting.

ROLL CALL

Lisa Flannigan called the roll, recording those present and those represented by proxy. She provided President Stone with a count and he declared that a quorum was present.

DISCUSSION

President Stone explained the Association's financial position and the status of its reserve accounts. He then opened the floor for questions from the members.

Merrill Thruston asked why the smaller homes are costing more to repair than those on Cola Ballena. President Stone stated that the short answer is that the homes on the 400 block of Tideway were in much worse condition.

In response to a question from Merrill Thruston regarding the amount of the shortfall, President Stone stated that the reference to \$575,000 referred to in paragraph 4 of the Budget 1991 General Remarks was intended to represent the shortfall. He stated that he was not sure why that amount does not agree with the figures in numbered paragraph 3 on the Notice of Special Financial Meeting. In response to other questions, President Stone stated that the reserves do not contain funds for repair or replacement of roofs, but that chain link fences are included. He stated that other fencing is included with routine maintenance, handled similarly to siding.

Merrill Thruston asked whether the dues increase would cure the reserves shortfall, and President Stone responded that it would not. Mr. Stone explained that the increase in dues to \$200 per month would allow the Association to pay its current expenses and contribute to the reserves at the rate that depreciation is depleting the reserves. Mr. Thruston strongly urged that the Association take steps to bring the reserves up to full funding as soon as possible.

Phil Braverman asked, relative to the difference between the original and current estimates of the repair costs, whether some siding had been replaced unnecessarily and what system of controls has been established to ensure no unnecessary work is done. President Stone explained that a licensed inspector, Dave Franklin of Roy Burge, oversees the work separate from the contractor performing the work. He further explained that the types of repairs being conducted do not lend themselves well to competitive bids as so much needed work becomes apparent during the repair process, but that that the current plan is to get competitive bids from three qualified contractors for all future home repairs.

Jim Oliver stated that he and several of his neighbors were told that no repairs were needed to their homes. President Stone stated that the inspector has not yet inspected the homes to which Mr. Oliver referred, and that the contractor's initial survey of all the neighborhoods had not revealed any homes which did not need any repairs.

Jerry Rasco stated that he had hired his own inspector and subsequently spent \$200 to have weathered wood replaced and repainted in the original color. He stated that he felt good wood had been removed from other homes, and that he understood that siding had been removed from one whole wall so that the owner could have insulation installed. Mr. Rasco stated that he felt the quality control of the work which was done was poor and that money was wasted. Jim Ehrlich asked whether Mr. Rasco was referring to Mr. Hall's home in his comment regarding insulation, and Mr. Rasco responded that he was. Mr. Ehrlich stated that it was his understanding that Mr. Hall had contracted separately to have the work done, and President Stone confirmed that Mr. Hall had paid all costs above the cost of the work the Association had determined was required. Ian Roger stated that 300 Tideway had been extensively rebuilt eight years ago, and that owner does not understand why the siding has now been removed. He asked why the work was not halted when it became apparent it would cost more than anticipated, and President Stone responded that the work needed to be done.

Jack Coker stated that the amount of money being spent now to repair the homes is very reasonable when it is understood that it is the only maintenance the homes have received over the past 20 years.

Mr. Ehrlich stated that the deterioration of the homes has taken place over a long period of time because homeowner dues have been artificially maintained at a low level. He read the results of his survey of the dues of other neighboring homeowners associations: Baywood Village a development on Bay Farm Island which has no docks or boat slips and minimal facilities charges monthly dues of \$191 (in 1980 they charged \$125 per month, compared with Ballena Bay Townhome Association which charged \$65 per month at that time); The Points, a similar development on Bay Farm Island, currently charges \$195 per month; Casitas charges \$174 per month and Garden Isle charges \$185 (both are fairly modest developments); Marina Village, a brand new development, charges \$157 per month; and Point Ballena, the group of homes which seceded from the Ballena Bay Townhome Association, is currently charging \$250 per month. Mr. Ehrlich stated that Point Ballena has also levied a \$1,600 special assessment to bring up the reserves. He summarized that one would probably have to go as far as Arkansas to find dues under \$100 per month.

Mr. Thruston stated that he pays much more at other properties he owns, including a property in Albany, with very little in the way of amenities, where he pays dues of \$225 per month. He stated that he didn't know where one could find dues of \$200 for any comparable development. Mr. Thruston strongly urged, however, that the Board adopt a competitive bidding process for all future work.

Mr. Braverman stated that a letter from his neighbors indicated their feeling that there had been no maintenance since 1988. He stated that he agreed to some extent, noting that water sealing of decks is not being done because of the current focus on major repairs. President Stone acknowledged Mr. Braverman's concerns.

Mr. Roger stated that he had his home inspected in 1976 before he bought it, and assumed that other homeowners had done the same. He stated that he felt it was strange that one could buy a home in a certain condition, then turn to his neighbors and ask them to pay for repairs. President Stone stated that Mr. Roger has been trying to prove that point in court, but the fact is that the CC&R's state and the majority of homeowners believe, that the Association is required to maintain the exterior surfaces of the homes. Mrs. Kenyon stated that they had bought their home on the understanding that the Association carried that responsibility, and other homeowners concurred.

Mr. Wohltmann stated that he had added up the value of the services represented in the \$200 monthly dues, and that he found that the cost of the same bundle of services would be significantly more than \$200 per month.

Mr. Braverman stated that, even if the membership were not to approve an increase in dues to \$200 per month, the Board has the authority to raise the dues 20% without membership approval, and that this would bring the dues to \$163 per month.

#### BALLOTING

The meeting was recessed to allow members to cast their ballots.

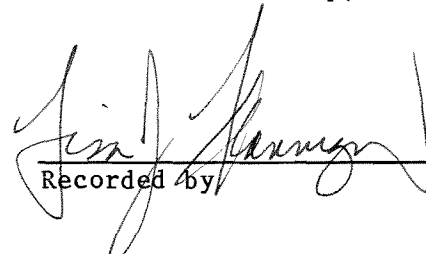
#### RESULTS OF BALLOTING

President Stone reconvened the meeting and announced the following results: 35 votes for the proposed dues increase; 19 votes against the proposed increase; and 1 blank ballot. He stated that, therefore, the dues will be \$200 per month.

#### ADJOURNMENT

There being no further business before the membership, the meeting was adjourned at 8:45 p.m.

  
\_\_\_\_\_  
Secretary

  
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Recorded by



BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF NOVEMBER 8, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by Archie Stone at 7:30 p.m.

ATTENDANCE

Present were Archie Stone, Jim Neil, Mel Schwartz, Jeff Frankel and Jim Ehrlich. Also present was Rich Noble of Noble Community Management and homeowners Marcia Gerin, Ken and Lorraine Roman, Charles and Shep Gallup, Joan Albin, Mary Neil, Hal Nelson, Audrey Ehrlich and Ida Stone.

MINUTES

There were two corrections to the minutes of the October 11, 1990 meeting.

MOTION: It was moved, seconded and passed to approve the minutes of the October 11, 1990 Board meeting as corrected.

PRESIDENT'S REPORT

President Stone reported that the Board had held its first meeting immediately following the membership meeting on November 1, 1990 for the purpose of electing officers. He announced that the following officers were elected for the coming year: Archie Stone, President; Jim Neil, Vice President; Mel Schwartz, Treasurer; and Jeff Frankel, Secretary. President Stone stated that the By-Laws provide for the above offices, as well as such other officers as the Board deems necessary, and that he would entertain a motion that the Board officers include two Vice Presidents, and that Jim Ehrlich be elected as an additional Vice President.

MOTION: It was moved, seconded and passed that the officers of the Board of Directors include two Vice Presidents.

MOTION: It was moved, seconded and passed that Jim Ehrlich be elected to the office of Vice President of the Board of Directors.

TREASURER'S REPORT

Dr. Mel Schwartz gave an update to the Financial Statements for the period ending October 31, 1990. He reported that the previous Board had moved to cancel its worker's compensation insurance as all work done on the site is under contract and the contractors have their own insurance, and that the Association had therefore received a refund of its worker's compensation insurance premium. Dr. Schwartz stated that, under Capital Improvements, the Association had received \$24,000 in special assessment payments and expended \$66,448, leaving a deficit of \$42,448. He stated that the deficit was made up by transferring funds from the reserves, which had a balance on September 30th of \$81,637, leaving a reserve balance of \$51,434 at the end of October after the transfer of \$30,203 to make up the shortfall. Dr. Schwartz stated that a \$15,000 bond is still being held pending resolution of the lawsuit involving the Association and homeowner Gutleben. He stated that, of 13 homes which are delinquent in payment of their dues, only 4 represent a real problem. He stated that he will be attempting to resolve the delinquency issue with the Great Sierra Group during the current month.

Dr. Schwartz summarized the amounts received in payment of the special assessments and the amount of those funds expended. He explained that \$31,287 was spent for "waterside" expenses, \$13,455 went for "landside" expenses, and \$170,659 went to home maintenance and repairs.

Dr. Schwartz gave a report on the status of the Association's insurance position, including an explanation of the replacement cost policy on homes, the dock policy, and dock liability insurance. He stated that the Association has a quote for earthquake insurance on every house from the water level up (including the foundation but not the docks or piles) at a cost of \$7.10 per house per month, or \$6,818 per year. Dr. Schwartz recommended that the Association obtain the quoted earthquake insurance immediately. He stated that he felt that the deductible on the policy should be paid by the Association and be divided equally among the members. Dr. Schwartz stated that \$50,000 of loss assessment insurance is available for a cost of \$20 per year, and further recommended that all homeowners obtain the insurance. In response to a question, Mr. Noble stated that the earthquake insurance cost is included in the proposed 1991 budget. Dr. Schwartz stated that the earthquake insurance law which goes into effect in July, 1991 does not currently include condominiums and townhomes, and that it would take some time for it to be adequately funded. Jeff Frankel stated that he would include an article in the next newsletter containing the information on earthquake and loss assessment insurance.

MOTION: It was moved, seconded and passed to file the Treasurer's Report for audit.

#### MANAGER'S REPORT

1. Building Renovation - Mr. Noble reported that Nicely Done expects to finish 342, 346, 350 and 352 Tideway by November 13th, and that painting will follow by R. E. Broocker. He stated that Tom Williams has completed work on 300 - 314 Tideway, and painting is in progress by R. E. Broocker.
2. Townhouse Parking Signs - Mr. Noble reported that the signs have been reinstalled at no additional charge, as he was not satisfied with the first installation.
3. Architectural Violations - Mr. Noble stated that letters had been sent, by both regular and certified mail, to the owners of 340 and 354 Tideway Drive regarding modifications they had made to their homes. He stated that 340 had refused to accept the certified letter, but that a response had been received from the owner of 354 Tideway and a copy was attached for their consideration.
4. Annual Audit - Mr. Noble stated that he had obtained bids from four firms for the annual financial review/audit, which were included in their meeting packet.

MOTION: It was moved, seconded and passed to accept the Manager's Report.

#### COMMITTEE REPORTS

- A. Home Maintenance and Architecture - Chair Archie Stone had nothing to report.
- B. Waterside Maintenance - Chair Jim Neil reported that little progress has been made on the dock work since the last meeting.

- C. Finance and Insurance - Chair Mel Schwartz stated that the Association is experiencing a cash flow problem and suggested that homeowners be offered a discount for paying the remainder of their entire special assessment (in most cases three years' worth) in order to bring the funds in sooner. There was discussion regarding the concept and amount of the discount. It was agreed that the matter would be added to the agenda under New Business.
- D. Neighborhood Communications - Chair Jeff Frankel requested contributions of articles or items for the newsletter, as well as assistance in hosting the Board meetings.
- E. Landside Maintenance - Chair Jim Ehrlich stated that he is planning to meet with prior chair Marty Gross, and had no report.

#### RESIDENTS' TIME

Gloria Patterson, 409 Cola Ballena, presented the Board with a written request to modify her unit. She was informed that the Board would review her request, and inform it was suggested that such requests be submitted to the Board a week prior to the Board meeting so that they could be acted upon at the meeting.

Mary Neil asked when the sidewalk at Patricia Hayes' unit, 1215 Ballena Boulevard, will be repaired as has been requested. Mr. Noble stated that he has asked Tim McNeil of Nicely Done to inspect the problem, and is awaiting his report.

Joan Albin asked whether the roots will be removed from beneath her driveway. Mr. Ehrlich offered to investigate.

#### NEW BUSINESS

- A. Previous Association Post Office Box - Dr. Schwartz suggested that the Association's post office box at the Webster Street Station be closed, as the Association no longer uses it as an official address, but uses Post Office Box 1216 at the main post office.

MOTION: It was moved, seconded and passed to cancel P.O. Box 512 at the Webster Street Station, and inform the homeowner who seems to use that box in writing of the change.

- B. Selection of Accountant to Perform Annual Audit

MOTION: It was moved, seconded and passed to hire Ed Riback, CPA, to perform a full audit.

- C. Discount for Payment of Special Assessment in Full - There was discussion regarding offering a discount to homeowners for full payment of their special assessment.

MOTION: It was moved, seconded and passed that those homeowners who desire to pay their three-year remaining balance on the special assessment in full by January 31, 1991 be given a 7.5% discount, which would amount to \$405.00.

President Stone asked Mr. Frankel to include an article in the newsletter regarding the discount.

MOTION: It was moved, seconded and passed to extend the offer embodied in the previous motion to those homeowners have already prepaid their special assessment for the full four years.

**OLD BUSINESS**

- A. Architectural Control Violations - President Stone stated that two homeowners had made additions to their homes without permission from the Association, that the Board had been asked to take action, and that letters were written to the homeowners regarding the violations. He stated that one of the homeowners had responded with a letter stating that he did not realize he needed approval for the work and would get a building permit, but that the other homeowner has refused delivery of the certified letter and has not responded. There was extensive discussion regarding what action to take regarding the noncomplying homeowner.

MOTION: It was moved, seconded and passed that Jim Neil will verbally request that the owner of 340 Tideway Drive come into compliance with the Association's normal architectural approval procedure, prior to the Board advising the City of the violation.

- B. Earthquake Insurance

MOTION: It was moved, seconded and passed that the Association immediately purchase earthquake insurance covering all home structures above the water line at a cost of \$7.10 per home per month, or approximately \$7,000 per year, paid in monthly installments.

Dr. Schwartz stated that he would call the Association's insurance agent the following day to make the arrangements.

- C. Approval of 1991 Budget - President Stone stated that the Board had performed a reserve study which revealed that actual reserves held by the Association amounts to less than half the necessary amount. He stated that Board is empowered to raise the homeowners' dues by 20% without action by the homeowners, and that it is considering raising the dues by that amount. President Stone also stated that the Board is considering recommending to the homeowners at the next Board meeting, which will also be a special meeting to consider financial matters, approval of an additional increase, bringing the total monthly dues to \$200. He stated that dues of \$200 per month will provide adequate funds to fully fund and maintain the reserves at the necessary level.

MOTION: It was moved, seconded and passed to approve the 1991 Budget as presented, and that, in order to fund the proposed budget, homeowner dues be increased by the maximum allowable amount of 20%.

MOTION: It was moved, seconded and passed that the Board shall, at its earliest convenience, propose to the membership an increase in homeowner dues to \$200 per month to stabilize the Association's contribution to its reserves.

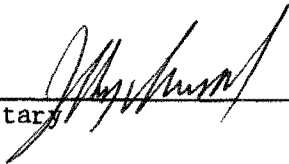
Ballena Bay Townhome Association  
Board of Directors Meeting  
November 8, 1990

President Stone stated that a packet containing the 1991 Budget, the Reserves Study, and the Board's recommendation regarding the amount of dues, will be mailed to all members by November 15th. He stated that an official notice will also be sent to all members urging them to attend the next Board meeting for the purpose of considering a dues increase beyond the 20% encompassed in the 1991 budget.

**ADJOURNMENT**

There being no further business before the Board, the meeting was adjourned at 8:47 p.m.

Secretary



Recorded by



BALLENA BAY TOWNHOME ASSOCIATION  
ANNUAL HOMEOWNERS MEETING  
NOVEMBER 1, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by President Bob Smith at 7:30 p.m.

President Smith welcomed members to the annual meeting and explained the purpose of the meeting. He introduced property manager Rich Noble, of Noble Community Management and Lisa Flannigan who prepares the minutes of the meetings.

ROLL CALL

Lisa Flannigan called the roll, recording those present and those represented by proxy. She provided President Smith with a count and he declared that a quorum was present.

LEGAL UPDATE

President Smith called on attorney Mike Scholtes to relate the ruling of the Superior Court of Alameda County in the matter of Gutleben v. Ballena Bay Townhome Association. Mr. Scholtes stated that the court ruled in favor of the Association, and urged homeowners to try to make peace with each other and work together to improve the property values and quality of life at Ballena Bay.

APPROVAL OF MINUTES OF THE ANNUAL HOMEOWNERS MEETING OF NOVEMBER 1, 1990

MOTION: It was moved, seconded and passed to approve the minutes of the Annual Homeowners Meeting of November 1, 1990.

BUSINESS

In response to a question, attorney Mike Scholtes explained procedure of cumulative voting, and that it would require a ByLaw amendment.

MOTION: It was moved and seconded that the procedure of cumulative voting be made available to members for the current election. Aye: 14. Nay: 56. MOTION FAILED.

NOMINATION OF DIRECTORS

President Smith opened the floor for nominations. The following names were placed in nomination: Archie Stone, Jeff Frankel, Mel Schwartz, Jim Neil, Jim Ehrlich and Hal Nelson.

MOTION: It was moved, seconded and passed to close the floor for nominations.

Each candidate gave a brief statement indicating their qualifications and interest in serving on the Board and answered questions posed by the members.

### ELECTION

There was a recess while ballots were cast and votes counted.

### ANNOUNCEMENT OF ELECTION RESULTS

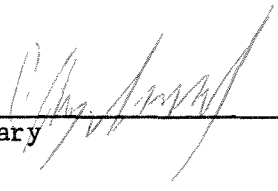
The meeting reconvened and it was announced that the following candidates had been elected to the Board of Directors: Archie Stone, Jeff Frankel, Mel Schwartz, Jim Neil and Jim Ehrlich.

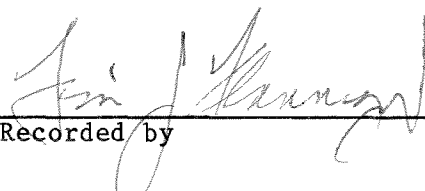
### GENERAL DISCUSSION

There was extensive discussion regarding a proposed amendment to the CC&R's to clarify which party would pay reasonable attorney fees and other attendant costs resulting from a lawsuit involving the Association and any homeowner(s). Mr. Scholtes suggested that the Board of Directors sponsor an initiative on the matter by providing proposed language to the membership and circulation of a written ballot. No action was taken. It was agreed to defer the matter to be addressed by the Board of Directors at a future Board meeting. There was also discussion regarding the need for updating or rewriting the Association's CC&R's.

### ADJOURNMENT

There being no further business before the membership, the meeting was adjourned at 9:15 p.m.

  
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Secretary

  
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Recorded by

BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF NOVEMBER 1, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by Archie Stone at 9:20 p.m.

ATTENDANCE

Present were Archie Stone, Jim Neil, Mel Schwartz, Jeff Frankel and Jim Ehrlich. Also present was Rich Noble of Noble Community Management.

ELECTION OF OFFICERS

MOTION: It was moved, seconded and passed to elect the following individuals to the corresponding offices: Archie Stone, President; Jim Neil, Vice President; Mel Schwartz, Treasurer; and Jeff Frankel, Secretary.

MEETING DATES

It was agreed that the Board would meet on the second Thursday of each month.

APPOINTMENT OF COMMITTEE CHAIRS

The following appointments were made: Waterside Maintenance, Jim Neil; Home Maintenance and Architecture, Archie Stone; Neighborhood Communications, Jeff Frankel; Finance and Insurance, Mel Schwartz; and Landside Maintenance, Jim Ehrlich. President Stone stated that he wished the Landside Maintenance Committee to include landscaping, streets, parking control and security. He asked each committee chair to edit the description of their committee to ensure that it covers what they believe it should. There was discussion regarding the home maintenance work.

BUDGET

President Stone reported that the budget, along with a reserve study and financial plans for the coming year, needs to be sent out by November 15th. He stated that in order to meet that deadline, the Board must approve the budget at its meeting of November 8, 1990, and suggested that the Board meet informally before then to work on the budget. Mr. Stone further suggested that each committee chair contact the previous chair of their committee and prepare figures to address their particular area. It was agreed that the Board would meet on Sunday, November 4th at 4:00 p.m. Mr. Noble was requested to supply information regarding dues charged by other homeowners' associations in the area, with notations regarding how they compare with Ballena Bay.

ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 9:55 p.m.

Secretary 

Recorded by \_\_\_\_\_



BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF OCTOBER 11, 1990

MINUTES

**CALL TO ORDER**

The meeting was called to order by President Bob Smith at 7:37 p.m.

**ATTENDANCE**

Present were Marcia Gerin, Marty Gross, Andy Hall and Archie Stone. Also present were Rich Noble of Noble Community Management and homeowner members Joan Albin, Bob Descombes, Jeff Frankel, Phil and Allison Braverman, Jim and Audrey Ehrlich, Jim and Mary Neil, and Chuck and Shep Gallup.

**MINUTES**

There was one correction to the minutes of the September 13, 1990 meeting.

MOTION: It was moved, seconded and passed to approve the minutes of the September 13, 1990 Board meeting as corrected.

**INSURANCE PRESENTATION**

Andrew Duncan, the new insurance agent for the Association, provided a written and verbal summary of the Association's current coverage and answered questions by Board members and homeowners. He also explained the cost and type of earthquake coverage available and answered questions regarding earthquake insurance and loss assessment coverage. Mr. Duncan explained three ways to handle the issue of who pays what share of the earthquake insurance deductible, and strongly recommended that the Association officially address two issues soon: (a) does the Association want earthquake coverage; and (b) how to share the deductible in the event of a loss. He also explained that the new state law regarding earthquake insurance coverage does not go into effect until July, 1991, and that it has not been determined whether the coverage of \$15,000 per single-family homeowner will be made available to owners of condominiums or townhomes. He stated that there will be a \$1,000 deductible, with a cost of \$60 added to the homeowner's insurance premium, and that it is not mandatory that every homeowner carry the earthquake insurance.

**TREASURER'S REPORT**

Andy Hall reviewed the financial statements for the period ended September 30, 1990, noting that the majority of the \$6,155 in delinquent dues is owed by the Great Sierra Group and one home on Tideway Drive. He stated that an adjusting entry will be made to reflect the fact that there is no "Prepaid Insurance", as he had Kathy Noble arrange to pay the premium in monthly installments to facilitate budgeting and cash flow analysis. Mr. Hall stated that the workmen's compensation deposit refund of a little more than \$3,000 had been received.

Mr. Hall reported that the Association is on track regarding its budgets with the exception of legal expenses (currently at almost 150% of budget), slightly over on accounting (due to changing status), and printing and mailing (which had been inadequately allocated). He reported that the rest of the expenses were either on budget or a little under budget, and that electricity expense was less than usual because of the secession of the eleven homes.

MOTION: It was moved, seconded and passed to accept the Treasurer's Report.

**MANAGER'S REPORT**

1. Building Renovation Project - Mr. Noble reported that Nicely Done is currently working at 342, 346, 350 and 352. He stated that he had written a letter to Audrey Rehfeld at 348 Tideway, as Mr. Roger had indicated he had her power of attorney and that she had instructed him that the Association was not to be permitted access to the property for repair and painting work, but that Mr. Roger has provided no proof of such power of attorney. He stated that he has given Ms. Rehfeld until October 19th to respond or repairs will proceed on her unit. Mr. Noble stated that Tom Williams was hired to conduct repairs at 300 - 314 Tideway, that work is progressing well, with three units complete and the remainder anticipated to be completed within a week. He reported that painting is near completion on the 400 block of Tideway, with the exception of punchlist items, and the painters will be moving on to the 300 building, pending Board approval of the bid. Mr. Noble stated that he anticipates that the 400 block of Tideway and the 300 block units completed within two or three weeks.
2. Townhouse Parking Signs - Mr. Noble stated that all but two of the signs have been installed, but that the brackets are in place and he will follow up.
3. Annual Meeting Notice and Proxy - Mr. Noble called members' attention to the samples of the Notice of Annual Meeting and Proxy forms included in their meeting packets.
4. Architectural Violation Notices - Mr. Noble reported that he had sent letters to the owners of 340 and 354 Tideway, both certified and regular mail, regarding unauthorized additions to their units, and letters to the owners at 329, 331, 333 and 335 Cola Ballena relative to widening and lengthening of their berths. He stated that 340 Tideway had refused delivery of the certified letter and that he has not received the return receipt on the letter to 354 Tideway. Mr. Noble recommended that the Board consider its next step as possible legal action. He stated that he has made unofficial inquiries with the City regarding City permits, but has not received a response.
5. 1991 Budget - Mr. Noble reported that, when he had brought up the subject at the last Board meeting of preparing next year's budget, he had been told that the Board wanted to wait until the new Board is seated. He expressed two concerns with this approach: (1) the new Board may have very little knowledge of the circumstances of the past year and will have insufficient time to prepare a proper budget; and (3\2) under state law, for the budget to be effective January 1, 1991, it must be presented to the membership 45 days prior to that date. Mr. Noble recommended that the current Board hold a budget meeting to prepare a sample budget for consideration by the new Board at the meeting of November 8, 1990, and if approved, for mailing to the membership no later than November 15th to meet state requirements. He further recommended that prospective candidates for the Board and current Board members who plan to continue on the Board attend the budget meeting. The budget meeting (a work session) was tentatively set for October 23, 1990 at 7:00 p.m. at Mr. Noble's home.

MOTION: It was moved, seconded and passed to accept the Manager's Report and commend Mr. Noble for a job well done.

#### COMMITTEE REPORTS

1. Landside Maintenance - There was no report.
2. Waterside Maintenance - Mr. Stone stated that there was no progress to report since the last Board meeting, and that he and Mr. Noble are disappointed in their contractor on the pile works. Mr. Noble stated that the contractor still anticipates completion by November 1st. Mr. Hall inquired as to cost overruns, and Mr. Noble stated that he would have Kathy go over the numbers.
3. Finance, Insurance and Legal - Mr. Hall reported no progress on legal matters.
4. Neighborhood Communications - Marcia Gerin stated that the newsletter had gone out on schedule. She thanked Shep Gallup for providing refreshments for the meetings. Shep asked whether a birthday cake will be provided as part of the refreshments for the annual membership meeting, as it will be the twenty-first birthday of the Association, and Marcia stated that she would follow up on the idea.
5. Landside Maintenance - Marty Gross reported that Sundance has been asked to adjust its bill since eleven homes have seceded from the Association, and read their response into the record (copy attached). He stated that he also received an anonymous donation in memory of Miss Christie, who passed away recently, which will be used to purchase and plant a flowering cherry tree somewhere on the site. Mr. Gross asked whether anyone knew who was painting green spots on some of the trees on the site. There was discussion, and the conclusion was that possibly the trees were being marked by Sundance for spraying with the dormant spray. Mr. Gross stated that he will check with Sundance. Mr. Stone asked whether a response will be sent to the Partridges, Mosers and the Delbecqs regarding the tree they wish to remove. Mr. Noble was instructed to send a letter informing them that the trees will be sprayed with dormant spray. There was discussion regarding removal and replacement of trees.

#### RESIDENT'S TIME

Jeff Frankel expressed his thanks to the Board for its hard work during the year.

Jim Ehrlich urged the Board to move quickly to develop a position on earthquake insurance and a strategy for addressing the deductible. Mrs. Braverman stated that she and Mr. Braverman had purchased their unit based on the fact that the Association had earthquake coverage, which was gone within six months after that time, and strongly encouraged the Board to obtain earthquake coverage. Mr. Stone suggested that Mr. Noble obtain a firm proposal from the insurance agent. Shep Gallup stated that, although the current quote may seem very reasonable, she was not convinced the cost of the coverage would not increase substantially in the future.

MOTION: It was moved, seconded and passed to request a written quote for earthquake insurance and, if the cost and coverage is as presented by Andrew Duncan, that it be considered at the next regularly scheduled Board meeting for immediate purchase.

Mr. Gross presented to the Board a dock modification proposal for 1209 - 1215 Ballena Boulevard which had been approved by his neighbors on the headfloat, Likins, Kenyon and Hayes. He explained that the proposal would not add any length. Mr. Stone asked

whether Dr. Hopkins also approved the plan, as it could have an impact on him, and Mr. Gross stated that, as he understood it has not been required to receive approval from others beyond the headfloat, he had not consulted Dr. Hopkins. He stated that he would consult Dr. Hopkins prior to bringing the plan before the Board for approval.

#### WRITTEN CORRESPONDENCE

1. Patricia Hayes, 1215 Ballena Boulevard - Mr. Noble stated that he had just received the letter requesting, again, that the Association repair her sidewalk now that the trees have been removed. He stated that he would have Tim McNeil inspect the sidewalk to see if the sections of the sidewalk can be raised, the roots dug out, and the sections reset. Mr. Gross stated that the water main is poured into one of the slabs, which would therefore need to be repoured or cut.

MOTION: It was moved, seconded and passed to authorize repair of the sidewalk at 1215 Ballena Boulevard.

Mr. Stone pointed out that Russell Lewis at 300 Tideway Drive has the same problem. Mr. Noble stated that he will have the roots cut at that location.

2. McHugh, 402 Tideway Drive - Mr. Noble stated that a verbal request had been received from McHugh for removal of the bottle brush plant, whose roots are raising the driveway.

MOTION: It was moved, seconded and passed to remove the bottle brush plant at 402 Tideway Drive.

3. Paul Michael Vuksich re James, et al. v. Ballena Bay - Mr. Noble stated that the letter was included for reference. There was no discussion.
4. Jerry Rasco, 461 Cola Ballena - Mr. Hall stated that he did not understand Mr. Rasco's concern, as the piling in question is nearer Mr. Hall than Mr. Rasco, and that the end hoop in question has been replaced. He stated that the issue of the headfloat had been addressed. No action was taken.

#### NEW BUSINESS

1. Annual Meeting Agenda - Mr. Noble asked if there were any additions to the agenda for the annual meeting. There was discussion. Mr. Neil suggested that all new members of the Association be introduced at that meeting, and it was agreed that his suggestion would be adopted.
2. Annual Meeting Notice and Proxy Form - Mr. Noble presented the Annual Meeting Notice and Proxy Form for Board review and approval. The Board approved the Annual Meeting Notice and Proxy Form as presented.
3. Painting Proposal - There was discussion regarding the bids from R. E. Broocker and the difference in price between a scenario where whole buildings can be painted at once or one where those units refusing access are not painted until later.

MOTION: It was moved, seconded and passed to accept the proposals from R. E. Broocker for painting of 300 - 314 Cola Ballena and 340 - 354 Cola Ballena as submitted.

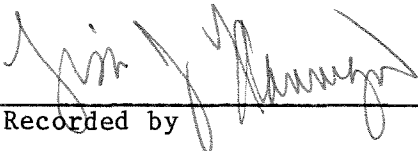
**OLD BUSINESS**

1. Architectural Control Violations - Ms. Gerin asked what the next step would be regarding the architectural control violations at 340 and 354 Tideway Drive. Mr. Noble stated that he is awaiting a response to his letters to the owners dated September 27, 1990, and that the next step would be a hearing at which the Board would decide whether to fine the owners or take other action.

**ADJOURNMENT**

There being no further business before the Board, the meeting was adjourned at 9:45 p.m.

  
\_\_\_\_\_  
Secretary

  
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Recorded by

BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF SEPTEMBER 13, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by President Bob Smith at 7:37 p.m.

ATTENDANCE

Present were Bob Smith, Marcia Gerin, Marty Gross, Andy Hall and Archie Stone. Also present were Rich Noble of Noble Community Management and homeowner members Joan Albin, Agnes Ringo, Ruth Masonek, Phil and Allison Braverman, Jim and Audrey Ehrlich, Mel Schwartz, Phyllis McGrew and Pat Corrigan.

MINUTES

MOTION: It was moved, seconded and passed to approve the minutes of the August 9, 1990 Board meeting as submitted.

INSURANCE PRESENTATION

President Smith stated that insurance agent Andrew Duncan was unable to attend to make a presentation on earthquake insurance coverage, and asked Mr. Hall to provide information. Mr. Hall stated that, contrary to the notice members may have received from Alameda Associates, the Association has insurance coverage through Farmers Insurance at the same level of coverage as the previous year. He stated that the Association does not have earthquake insurance, partly due to the fact that the new agent (Duncan) was having difficulty getting complete information on the coverage.

PRESIDENT'S REPORT

President Smith stated that he is still commuting from Battle Creek, Michigan, and has been impressed with the way the Board has handled matters in his absence.

TREASURER'S REPORT

Andy Hall reviewed the financial statements, stating that they reflect minimal income as this is the last month of the quarter and most homeowners have already made their quarterly payments. He stated that noteworthy expenses included approximately \$40,000 to Nicely Done for their work on 400 - 422 Tideway (excluding 402, who has requested no work be done), \$2,100 to Andrew Duncan for the insurance premium (annual premium is approximately \$13,500). Mr. Hall stated that he had Kathy Noble arrange to pay the premium in monthly installments to facilitate budgeting and cash flow analysis. He stated that some expenses were less than usual because of the secession of the eleven homes, which had represented a fair portion of the water and electricity expense. Mr. Hall stated that the Association has \$3,000 on deposit for worker's compensation insurance, but that as \$400 per year was additionally required to continue the coverage and the Association has no employees nor does it contemplate hiring any, he had sent a letter requesting cancellation of the policy and return of the deposit. He reported that there are less than \$10,000 in delinquent dues, almost half of which is owed by Sherman (against whose property a lien has been filed), and another quarter of which is owed by the Great Sierra Group, leaving a small amount of homeowners with outstanding dues balances.

Mr. Hall stated that the Association is on track regarding its budgets with the exception of legal expenses (currently at almost 150% of budget) and printing and mailing (150% of budget, but representing an overage of only \$50 - \$100). He stated that the Association is under budget on electricity and water, partly due to the secession of the eleven homes, and the water largely due to savings resulting from the installation of the new sprinkler system by Sundance.

MOTION: It was moved, seconded and passed to accept the Treasurer's Report.

#### MANAGER'S REPORT

1. Building Renovation Project - Mr. Noble reported that construction work at 400 - 422 Tideway has been completed, with the exception of minor punchlist items, and that work has started on 300 - 314 Tideway and 340 - 354 Tideway. He noted that contractor Tom Williams had been brought in to help expedite the project, as it became apparent that the target of 36 units would not be reached at the previous pace, and that Mr. Williams has started on 300 Tideway. Mr. Noble stated that Nicely Done has started work on 340 - 354 Tideway, but that 340, 354, 344 and 348 have indicated that they do not wish the Association to perform work on their units, and that accordingly those units have only been inspected to date. There was discussion regarding how to handle those units to which the Association is barred access.

Mr. Noble reported that two bids had been received for painting, but that they were higher than the average had been, so that he had attempted to get additional quotes. He stated that he had been unable to get a quote which was better than or matched the previous quote, but had managed to get R. E. Broecker to lower its price to \$2,000 per unit. Mr. Noble stated that he has experience with the company, that they do a very good job, and that he feels they are willing to lower the price in hopes of securing future contracts. He stated that, due to the delay in selection, however, the painting would probably not begin prior to the first or second week of October.

Mr. Noble stated that he has been surveying the material prices available to each of our contractors to obtain the most favorable pricing, and that he has already been able to reduce the cost of the caulking and is looking into more competitive prices for siding.

2. Townhouse Parking Signs - Mr. Noble stated that the signs have been ordered at a cost of \$43.00 each, and he will have the sign company give him an estimate for installing them for comparison with the rates quoted by the Association's independent contractors.
3. Insurance - Mr. Noble stated that he had invited agent Andrew Duncan to make a presentation at the meeting, but that the quote for earthquake insurance he had previously obtained had expired and there had been a lot of movement in that market, so that firm rates are difficult to obtain. He stated that Mr. Duncan had also been involved in finalizing the current policy, and that Mr. Duncan will plan to attend the Board's October meeting.

MOTION: It was moved, seconded and passed to accept the Manager's Report.

COMMITTEE REPORTS

1. Home Maintenance and Architecture - Mr. Stone corroborated Mr. Noble's report that the repairs are behind schedule and an additional contractor had been hired to speed things up. He stated that cash flow constraints may preclude keeping up the pace originally planned for the repairs.
2. Waterside Maintenance - Mr. Stone reported that dredging permits have been received from the Corps of Engineers, the Bay Conservation and Development Commission, and the Regional Water Quality Control Board, which must now be submitted to the City of Alameda in order for the City Council to vote to issue a City permit. He stated that the Corps permit stipulates that there be no dredging during the period between December 1st and March 1st, as that is the herring spawning season. Mr. Stone stated that he had talked with the yacht harbor and some dredging companies, all of which agreed that it would be impossible to guarantee bidding and completion of the project prior to December 1st, and that the dredging is therefore anticipated to take place after March 1st.

Mr. Stone reviewed the quote for replacement of pile rings, and explained that he had been able to get the cost for remounting existing pile rings reduced from \$150 to \$30 each, and to reduce the cost of extending and mounting existing pile rings (rewelding) from \$600 to \$120.

3. Finance, Insurance and Legal - Mr. Hall explained the circumstances of the change in insurance agents, summarizing that the new policy through Farmers contains better coverage at a savings of \$10,000 on the premium. He stated that the coverage includes a \$2,000,000 umbrella policy, with the property valued at \$7,000,000 and a fidelity bond of \$200,000 (which was not included last year). Mr. Hall explained that the procedure used was a flat cancellation, meaning that the Association cancelled its old policy as of August 1st, and Farmer's covered the Association starting August 1st, so that there was no lapse in coverage. He stated that it appears that Travelers' (the insurance company with whom the Association previously had coverage) wants to leave the association marketplace and is accordingly pricing themselves out of the market. Mr. Hall stated that the Association's policy contains "claims made" coverage, and explained that this means that the Association is covered for any suit filed against the Board during the coverage, regardless of whether the action which resulted in the claim occurred prior to the coverage. There was discussion regarding the valuation of the property contained in the policy. President Smith commended Mr. Hall and Mr. Noble for arranging the change in insurance and the resulting savings to the Association.

Mr. Hall stated that the Association's attorneys have been asked to move for summary judgment in the Rasco suit. Mr. Noble was directed to obtain a copy of the judgment for all Directors to review. There was discussion regarding access to middle units where access to end units is barred.

4. Neighborhood Communications - Ms. Gerin reported that the newsletter went out reasonably timely. She stated that she has some articles for the next issue, and that there is room for more. Ms. Gerin also suggested that want ads be included, and this suggestion met with a favorable response.
5. Landside Maintenance - Mr. Gross reported that the Cola Ballena section will be planted in the Fall, when the weather cools. He stated that the work from now



until December will consist of filling in some of the sparse areas. Mr. Gross stated that the quick couplers have been installed, and the sprinklers are now functioning on the corner where the container had been located. Mr. Stone stated that he has noticed areas which are still not receiving water, and Mr. Gross stated that he would investigate.

#### RESIDENTS' TIME

Grace Masonek stated that she had discovered a beehive underneath the unit at 314 Tideway, and also noted that the ivy was damaging the wood. She also stated that she has problems with fleas and mice at her home. Joan Albin stated that she has a problem with pigeons nesting in her rafters and creating a noise and unsanitary nuisance. There was discussion regarding whether the homeowner or the Association is responsible for pest control, and it was decided that where a problem is not shared by all residents, the responsibility for resolving it rests with the homeowner.

Andy Hall presented plans for landscaping which he proposes to have installed between his unit and his neighbor (Mason) at his own expense. Mr. Hall stated that, in his opinion, it did not seem that the proposal would create a need for any special attention by the landscaper.

MOTION: It was moved, seconded and passed to approve the proposal submitted by Andy Hall for landscaping between his home and the Masons.

Mr. Stone stated that there is a problem with the myoporum trees dropping sap on cars and suggested that they be cut back drastically. Mr. Gross stated that such pruning would not be effective over the long run, that spraying trees with a dormant spray may achieve the desired result, and stated that he would investigate.

#### WRITTEN CORRESPONDENCE

1. Letter from Michael Scholtes, Fong & Fong, Regarding Correspondence with Attorney Paul Vuksich Representing Robert Schwartz, 344 Tideway - No action was taken.
2. Letter from State of California, Franchise Tax Board Approving Tax Exempt Status - Mr. Hall explained that, prior to attaining tax exempt status, the Association paid the minimum amount of tax which is charged corporations. He stated that, with its new (tax exempt) status, the Association has the option to file in the most advantageous manner -- as a straight corporation or a mutual benefit corporation.

#### NEW BUSINESS

1. Annual Meeting Date - The Annual Membership Meeting was set for November 1, 1990.
2. Letter from the Walkers and Liptais - Mr. Hall explained that the Walkers and the Liptais would like to widen and lengthen their berth with the two interior berths so that they are the same length and width as the outside berths. He stated that typically a berth change requires that all neighbors on the head float agree, and that it is obvious that in case not all neighbors agree, as Merrill Thruston has voiced opposition to the proposal.

MOTION: It was moved, seconded and passed to direct Manager Rich Noble to write a letter to each of the four parties involved informing them that the proposals forwarded by the Walkers/Liptais/Partridges and Thrustons cannot be approved due to the short notice for consideration and lack of unanimity among the neighbors on the head float, and requesting that it be reworked and resubmitted.

**OLD BUSINESS**

1. Additions to Homes on Tideway - Ms. Gerin stated that she still has concerns regarding the unauthorized alterations to these homes.

MOTION: It was moved, seconded and passed to send a letter to the residents of 340 and 354 Tideway Drive notifying them that the Board is aware of the additions made to their homes over common area, and suggest that they make application for approval. Aye: Gerin, Gross, Hall. Nay: Stone.

**ADJOURNMENT**

There being no further business before the Board, the meeting was adjourned at 9:00 p.m.

Secretary

Recorded by

BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF AUGUST 9, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by President Bob Smith at 7:40 p.m.

ATTENDANCE

Present were Bob Smith, Marcia Gerin, Marty Gross, Andy Hall and Archie Stone. Also present were Rich Noble of Noble Community Management and homeowner members Charles and Shep Gallup, Joan Albin, Jim Neil, Bob and Helen Descombes, Merl Peters, Ruth Masonek, Phil Braverman and Jim and Audrey Ehrlich and guest Carl Wohltmann.

MINUTES

Two minor corrections were noted to the minutes of the July 12, 1990 meeting.

MOTION: It was moved, seconded and passed to approve the minutes of the July 12, 1990 Board meeting as corrected.

PRESIDENT'S REPORT

President Smith stated that he has been impressed with the progress he has seen in the landscaping of the corner where the container had been, and thanked Marty Gross, Shep Gallup, Archie Stone and Phyllis McGrew for their efforts.

TREASURER'S REPORT

Andy Hall reviewed the financial statements, stating that noteworthy expenses were for Nicely Done, the Association's attorneys, Sundance Landscaping for planting, and float removal. He stated that the Association is relatively on target regarding the budget, with the exception of legal expense. Mr. Hall stated that this quarter it will become clear whether the Association is over budget on an amortized basis, and he anticipated that it would be over budget as most of the rest of the rehabilitation work will be performed in the next two or three months and there is only one more quarter of income with which to fund those expenses.

In response to a question regarding filing of liens against property for delinquent homeowner dues, Mr. Noble stated that he believes the process is automatic, but will confirm with Kathy Noble. Mr. Stone requested Mr. Noble to clarify which overdue amounts, as reflected on his statement, relate to quarterly assessments which are not due monthly. Mr. Noble stated that he will discuss changing the accounting procedure with Kathy so that only true delinquencies are reflected on the statement.

MOTION: It was moved, seconded and passed to accept the Treasurer's Report.

MANAGER'S REPORT

1. Building Renovation - Mr. Noble reported that the renovation of the units at 400 - 422 Tideway is nearly complete, and that work will then begin at 340 - 354 Tideway. He stated that he had obtained two bids for painting 400 - 422 Tideway, one from Steve Tingley Painting and the other from R. E. Broecker Company. Mr. Noble stated that he had not been pleased with the work of Tingley painting on the

last building, and that Mr. Tingley has promised to put a better crew on the job if their bid is accepted for the next building. He stated that he was not completely convinced the result would be better, and recommended that the Association accept the bid of R. E. Broocker for the painting.

2. Emergency Repairs - Mr. Noble stated that the repair on the ramp at the attaching point on the landing at 445 Cola Ballena is in progress.
3. Signs - Mr. Noble stated that Mr. Stone had requested quotes on parking signs a few days ago, but that he has been unable to obtain quotes as of yet. Mr. Stone asked Mr. Noble to attempt to estimate the cost so that action could be taken.

MOTION: It was moved, seconded and passed to accept the Manager's Report.

#### COMMITTEE REPORTS

1. Home Maintenance and Architecture - Mr. Stone reported that the renovation work is proceeding, a bit more slowly and at somewhat higher cost than anticipated, but that the work is of good quality. He stated that the delay in completion is due to the fact that there is not a large enough crew working on the site, and that he felt less would be accomplished this year than originally anticipated. Ms. Gerin stated that she has noted unauthorized improvements at 340 and 354 Tideway Drive, and the matter was added to the agenda under New Business.
2. Waterside Maintenance - Mr. Stone reported that the dredging permits from the Corps of Engineers should be received within thirty days, after which he will apply for permits from the City of Alameda. He stated that he is awaiting a bid for the piling rings from Curt Bolton. In response to a question, Mr. Stone stated that the end fingers are secured by a special coupling made out of timber to hold them temporarily. He stated that the top priority is the dredging.
3. Finance, Insurance and Legal - Mr. Hall reported that he has received a binder for the Association's insurance coverage although the actual policy has not yet been issued. He stated that he anticipated the premium to be significantly less due to the deletion from the policy of the eleven homes which seceded from the Association.

Mr. Hall reported that the judge in the Rasco hearing did not find grounds for an injunction due to irreparable harm. He stated that two options are now open to the Association: (1) to proceed to trial, which might take two to three years; or (2) to move for summary judgment. Mr. Hall stated that attorney Scholtez had estimated it would take 16 hours of his (Scholtez's) time to prepare the motion for summary judgment, and had recommended that option. President Smith suggested that the Association proceed with the rehabilitation project, around Mr. Rasco's unit, and offered to consult with Mr. Scholtez regarding the Association's options.

Mr. Hall stated that, regarding the member ballot regarding earthquake insurance, Mr. Noble reported that he had received 20 yes and 9 no votes, and Mr. Hall stated that that response represents one-third of the homeowners. It was the consensus of the Board that the votes did not represent a sufficient percentage of homeowners in relation to the costs associated with the insurance, and it was agreed to invite an insurance agent to attend the next Board meeting to answer questions regarding earthquake insurance.

4. Neighborhood Communications - Marcia Gerin reported that the newsletter had gone out, and thanked Shep Gallup and Ruth Masonek for the news they provided. Mr. Stone stated that he would write and submit an article thanking those involved with the landscaping. He asked Shep Gallup to provide him with a list of those who had contributed time, effort or other resources to the project. Ms. Gerin stated that she will try to get a new graphic heading for the newsletter. She also stated that she would solicit volunteers to help with hosting the refreshments for the Board meetings so the same person was not responsible each month.
5. Landside Maintenance - Marty Gross reported that Sundance is working on the sprinkler clocks near Terry Klaus' home, and they have started on the quick coupler work. Mr. Noble reported that all the work on the quick couplers had been completed except one. Mr. Gross stated that there are a couple of spots which are yet to be planted. In response to a question, Mr. Gross stated that he did not know exactly when the grass would go in, and Mr. Noble added that the power had been switched off so the clocks would have to be reset for the rest of the lawn areas as well. Mr. Gross stated that the door to the box over the sprinkler controllers at 400 Tideway is missing, and requested that Mr. Noble have it replaced.

Ms. Gerin brought to Mr. Noble's attention the fact that the carpenters had trampled newly-planted areas between 318, 418 and 420 Tideway Drive, and he stated that the contractor has been advised that he will have to pay the cost to replace the plants. She also pointed out that some of the star jasmine don't seem to be getting water, and that the workmen had broken two sprinkler heads. Mr. Gross stated that, since he had clarified with Sundance regarding repair of sprinklers, they have been pretty good about keeping them in good repair.

#### RESIDENTS' TIME

Bob Descomes asked whether the eleven homes had seceded from the Association, and he was told that they had. He stated that they had water and electricity to their docks which were hooked up to the Association's common meters. Mr. Gross stated that the area has been remetered, and Mr. Noble stated that the billing is being changed.

Charles Gallup stated that Porta Ballena has parking signs which might be good models for the signs the Association will need. He also stated that the meter box doors at 455 Cola Ballena need to be repaired, and that the owner of that unit will not use the light globes which are provided. Mr. Hall stated that he understood that they leave the globe off so that they can unscrew the bulb, thus turning the light off from the outside. It was suggested that a fixture with a pull chain be installed.

Ruth Masonek stated that the intercom at 406 Tideway has been removed. Mr. Noble stated that he would investigate.

#### WRITTEN CORRESPONDENCE

1. Jim Robertson, 312 Tideway Drive, Regarding Battery Box - Mr. Noble was asked to request to write in response to Mr. Robertson, informing him that whatever he puts on his dock is acceptable as long as it complies with the rules and there are no objections from his neighbors, and informing him that he is welcome to let Mr. Noble know of any hazards, etc., of which he is aware.

2. Marshall Perry, 451 Cola Ballena, Requesting Permission to Park in Guest Parking Area - Mr. Noble was requested to send a letter to Mr. Perry, informing him that the Board cannot approve his request, but will take no action unless there is a complaint. It was agreed that upon receipt of such complaints, Mr. Noble will seek a decision from the President, who may consult others on the Board at his discretion.
3. Elizabeth Robertson, 312 Tideway Drive, Forwarding Response to Letter to Naval Air Station - No action was taken.

#### NEW BUSINESS

1. Consideration of Painting Bids - Mr. Noble stated that he had been disappointed in the bids as they were 50% more than quotes during the last bid process. Mr. Hall requested that Mr. Noble ensure that the homes to which the Association has been denied access for repairs/painting are excluded from the quotes, and Ms. Gerin stated that the bids should omit caulking and mildew treatments, as repairs will have been made to the units prior to the painting. Mr. Noble was requested to obtain more bids, then poll the Board members by telephone for approval.
2. Unauthorized Improvements at 340 and 354 Tideway Drive - President Smith suggested that no action be taken, but that the item be put on the agenda for the next Board meeting in order that all Board members might have an opportunity to view the improvements in question prior to discussion and action.
3. Earthquake Insurance - President Smith stated that he will invite an insurance agent to answer questions regarding earthquake insurance at the next meeting.
4. Social/Hospitality Budget - Ms. Gerin stated that she has received donations of funds for the Social/Hospitality Committee and that she feels it is unfair that one person has supplied all the refreshments for each meeting. It was the consensus of the Board to recommend to the next Board that an amount be budgeted for this area, under the Neighborhood Communications Committee, when developing the next budget.

#### OLD BUSINESS

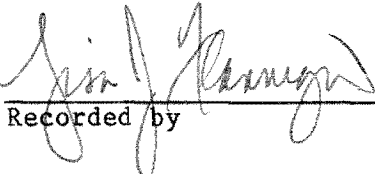
1. Parking Signs - Mr. Stone stated that it appears that eleven signs will need to be posted in order to officially enforce the parking rules. He asked Mr. Noble to estimate the cost of the signs so it could be approved, and Mr. Noble guessed the signs would cost approximately \$100 each, including installation.

MOTION: It was moved, seconded and passed to appropriate a budget not to exceed \$1,500 for the purchase and installation of parking signs.

#### ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 9:15 p.m.

  
\_\_\_\_\_  
Secretary

  
\_\_\_\_\_  
Recorded by

BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF JULY 12, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by President Bob Smith at 7:40 p.m.

ATTENDANCE

Present were Bob Smith, Marcia Gerin, Marty Gross, Andy Hall and Archie Stone. Also present were Rich Noble of Noble Community Management and homeowner members Charles and Shep Gallup, Joan Albin, Jim and Mary Neil, Jim Oliver, Ed Foster, David Wild, Ruth Masonek, Phil Braverman, Jim and Audrey Ehrlich and Phyllis McGrew.

MINUTES

MOTION: It was moved, seconded and passed to approve the minutes of the June 14, 1990 Board meeting as submitted.

TREASURER'S REPORT

Andy Hall reviewed the financial statements, stating that the Association has concluded the first half of its fiscal year. He stated that \$10,000 has been transferred from the savings account to the Prudential-Bache account which earns interest at a higher rate while maintaining liquidity. Mr. Hall summarized the following unusual expenses: (1) \$6,372 (including normal monthly charges) for major repairs done by Sundance Landscaping; (2) \$190 for tree removal by Bakin Tree Service; (3) \$350 to prepare the Association's tax exemption; (4) approximately \$944 for roof repairs; and (5) \$7,700 to Nicely Done for home repairs. He stated that the usual \$2,900 transfer to reserves was made and that a partial payment of \$11,224 was made to Estuary Pile Driving Service.

Mr. Hall stated that the Association is under budget with regard to its expenses with the exception of accounting (above-mentioned cost of \$350 to change the Association's tax status) and printing/mailing. He stated that he anticipates making additional payments to Nicely Done and Estuary Pile Driving Service at the conclusion of the meeting.

MOTION: It was moved, seconded and passed to accept the Treasurer's Report.

MANAGER'S REPORT

Mr. Noble stated that home repairs are 50% complete on the 400 block of Tideway, and that he is currently accepting bids for painting of that building which should be available for Board consideration at its August meeting. He stated that three of the four units on Cola Ballena have been completed and that the court date regarding obtaining access to the fourth unit is tomorrow (July 13). Mr. Noble stated that the pile driving is progressing.

Mr. Noble reported that Sundance Landscaping has cleaned up the corner lot after the container was removed, and he had met with them regarding their proposal for landscaping the area. He stated that the proposal will be addressed in detail by Landscape Committee Chair Marty Gross as part of his report.

## COMMITTEE REPORTS

### 1. Home Maintenance and Architecture

Archie Stone reported that the home maintenance has gone forward reasonably well, but that it is behind schedule due to insufficient allocation of personnel to the project. He stated that, at his and Mr. Noble's insistence, the crew has been increased to seven, and that they are working longer hours. Mr. Stone stated that he fears the crew will not achieve the quota of 36 homes repaired this year.

### 2. Waterside Maintenance

Mr. Stone reported that the pile driving is about halfway completed, with 15 of 29 piles driven, and that 50% of the work has been paid for. He stated that the half completed is the easy half, and that replacement of the remaining piles will require partial dock dismantling. Mr. Stone stated that the crew is off this weekend, but will be back at work the following weekend.

Mr. Stone reported that the excess floats had been removed at a cost less than \$1,800. He stated that the original estimated cost was \$2,908 for truck rental, driver, hoist and unloading fees, but that Andy Hall had found a cheaper source for the trucking.

Mr. Stone asked Jim Neil to report on the meeting of the Dock Committee. Mr. Neil reported that Terry Klaus, Bob Partridge, Mr. Stone and himself had met on July 9th. He stated that the committee decided it would be best to do the dredging before undertaking the float replacement work. Mr. Stone reported that the Corps of Engineers has indicated that the permit is ready for signature, pending receipt of a letter from the Regional Water Quality Control Board. He stated that he called the Water Quality Control Board, and was told the letter is in typing. Mr. Stone stated that he would provide the City of Alameda a copy of the Corps of Engineering dredging permit to facilitate issuance of the city's permit. Mr. Neil stated that the next step is to get some estimates of the cost of the dredging.

Mr. Neil stated that an estimate for the float replacement work of approximately \$128,000. He stated that the committee considered completing the dredging this year, then set up a float replacement plan over the next three years. Mr. Stone stated that consideration is also being given to remedial work to keep the floats in place until the repairs can be made. Mr. Neil stated that new floats would cost approximately \$20 per square foot, but that Curt Bolton could build them for less than \$14 per square foot.

Marcia Gerin asked whether, in some locations, additional piles would help to preserve some of the floats, and if the Committee had considered that approach. Mr. Stone responded that they did not, as the locations with the greatest exposure have adequate pilings. There was discussion regarding the fact that homeowners have carried responsibility for maintaining their oversized docks (over 30 feet).

In response to a question from Jim Oliver, Mr. Stone explained that the existing rings (collars) will be removed and extended how the new collars would work. Mr. Stone stated that he informed Mr. Bolton that his quote of \$640 per ring was much too high, and asked him to rework and resubmit the bid.



3. Finance, Insurance & Legal

Andy Hall reported that the hearing regarding Jerry Rasco's preliminary injunction is scheduled for tomorrow (July 13th) at 2:00 p.m. at Department 1 of the Alameda County Superior Court. He explained that the Association has a temporary restraining order barring Mr. Rasco from interfering with the workmen. Mr. Hall stated that the purpose of the hearing is to attempt to get a preliminary injunction to allow the Association to do the required work on Mr. Rasco's home. He stated that the Rascos have had repair work underway in the interim, so there may not be much work remaining to be accomplished. There was a brief discussion regarding the process by which the colors were selected.

Mr. Hall stated that there have been meetings with the eleven homes which want to secede from the Association, and it is the Board consensus that the homeowners must pay all delinquent homeowner dues and penalties which are required before the Board signs the agreement releasing them. He stated that it is his understanding that there are still three outstanding homeowner accounts.

In response to a question from Jim Oliver, Mr. Hall explained that the funds invested in the Prudential-Bache account are invested in short-term, interest-bearing commercial paper and government treasury bills, and therefore represents minimal risk. He further stated that the Prudential-Bache account earns 2.5% more than the Association's savings account did.

4. Neighborhood Communications

Marcia Gerin stated that there had not been a July newsletter as she had been out of town, and had not published a newsletter the previous month because she had received no items to include. She solicited nonpolitical gossip and neighborhood news for inclusion in the next newsletter. Marcia also solicited information on news where a card might be appropriate for positive events. She also acknowledged the work of Mary Neil and her committee in putting on the barbeque, stating that although she had been unable to attend, she had heard only positive comments above the event. Mary Neil thanked her committee, and stated that she had received many thank you notes, and that many homeowners had offered to help with the event or donate funds for the next event. She turned in her receipts to the Board and stated that the committee is considering a spring event.

5. Landside Maintenance

Marty Gross reported that he had received a letter from Jackie Clancy, who was unhappy with the chips which had been placed in front of her home, and that he had told her they didn't have to stay. He stated that she replanted, that it looks nice and is in character with the surrounding landscaping, and recommended that the Board approve the plantings.

Mr. Gross stated that there are areas along Cola Ballena which are not watered by the irrigation systems currently on line. He stated that Sundance has submitted a proposal to install quick couplers which would allow them to hook hoses into the sprinkler system so they would not need to go to individual homeowners and request permission to use their water. Mr. Gross stated that the proposal is for four quick couplers at a cost of \$200 each, and 100 feet of hose at \$740, for a total

cost of \$1,540. He recommended the Board accept the bid from Sundance for the couplers, and he would source the hose to see if he could obtain it less expensively than quoted by Sundance.

MOTION: It was moved, seconded and passed to accept the bid from Sundance Landscaping for four quick couplers.

Mr. Gross stated that a second proposal from Sundance was for relandscaping of the corner where the storage container had been located. He stated that he felt the quote was very high, and that the 200 plants proposed exceeds the scope envisioned for the area. He stated that he would like to ask Sundance to develop another proposal in the \$2,500 price range for presentation at the next Board meeting. Jeff Frankel offered to donate a day or two of his time to run sprinklers, etc.

MOTION: It was moved, seconded and passed to approve a budget of not more than \$3,500 for Manager Rich Noble and Landscape Committee Chair Marty Gross to negotiate with Sundance Landscaping for relandscaping of the area previously occupied by the container.

#### RESIDENTS' TIME

Jim Neil, 1223 Ballena Boulevard, presented a proposal to change the configuration of his dock along with drawings of the existing and proposed configurations. He stated that the proposal has been approved by the Waterside Maintenance Committee. Mr. Stone stated that the approval was conditioned on Mr. Neil obtaining signatures from his affected neighbors indicating their approval, which he has done. Mr. Neil stated that no dredging would be required, and that there is currently a distance of 65 - 70 feet between his dock and Pat Hayes' dock. He explained that he wished to have the work performed while the pile driver is working in the marina, although he understands that any pile driving performed as part of the proposal would be at his cost. Mr. Neil responded to various questions regarding the proposal.

MOTION: It was moved, seconded and passed to approve the proposal from Jim Neil, 1223 Ballena Boulevard, to change the configuration of his dock.

#### WRITTEN CORRESPONDENCE

1. Letter from Hon Chew, 342 Tideway Drive Regarding Unsightly Sailboat and Dock

President Smith read Mr. Chew's letter into the record (copy attached) and explained that the subject areas of Mr. Chew's complaint belong to Ian Roger.

Mr. Frankel stated that had declined to purchase 342 Tideway Drive, although it was cheaper than the unit he ultimately bought, due to the unsightly condition around the dock, as mentioned by Mr. Chew. Mr. Gross stated that he had written a letter similar to Mr. Chew's regarding the same problems at the same property when he was renting 346 Tideway Drive. He stated that he felt that the area should be cleaned up, for safety reasons as well as for protection of neighboring property values.

Mr. Stone stated that there is currently no rule which specifically allows the Association to address Mr. Chew's concerns, and suggested that the Board postpone

debate on the matter until after it considers the proposed "Rules Governing Storage in Common Areas".

Mr. Neil stated that Mr. Roger had called him indicating that he had replaced all the ramps, with the exception of Sally Tonningsen's. He stated that Ian offered to rebuild the ramp if it were removed and placed on the platform. It was agreed that Mr. Roger should be thanked for his offer, but that any work will be performed by the Association's contractor.

Manager Rich Noble was instructed to send a copy of Mr. Chew's letter to Mr. Roger and send a response to Mr. Chew.

2. Ian Roger Supplemental Declaration in Ballena Bay v. Rasco - Information only, no action taken.
3. Copy of Letter from Elizabeth Robertson, 312 Tideway Drive, to Commanding Officer, NAS Alameda, Regarding Debris in San Francisco Bay Waters - Mr. Stone stated that no Board action was requested by Ms. Robertson.

#### OLD BUSINESS

1. Rules Governing Storage in the Common Areas

Mr. Stone explained that a copy of the proposed rules had been sent to each homeowner, with a notation that the topic would be discussed at the present meeting. He stated that, as he had received a considerable amount of feedback, he had accordingly revised the proposal and he distributed revised copies to the Board and members in attendance at the meeting. Mr. Stone then reviewed the revisions to the proposal.

Charles Gallup expressed concern regarding the homes which have exclusive docking easements specifying exact dimensions, specifically the end homes. Mr. Gross suggested that paragraph "b" be amended to read: "Short term mooring of boats of non-resident guests of owners or occupants at available moorings, to the extent acceptable to other homeowners or occupants on that dock."

MOTION: It was moved, seconded and passed to adopt the Rules Governing Storage in the Common Area as amended, and that Manager Rich Noble and Archie Stone return within a month with estimates of the cost to implement the rules.

2. Maintenance of the Cola Ballena Roadway

Mr. Hall stated that he and Mr. Stone had been working with the other associations and the harbor regarding a road maintenance agreement for Cola Ballena. He stated that talks have reached the point where everyone agrees on the numbers, with the exception of one association which needs approval from its board. Mr. Hall stated that the cost to the Ballena Bay Townhome Association could be as much as \$250 for its equal share of the cost to draw up the document.

MOTION: It was moved, seconded and passed to appropriate a maximum of \$250 toward contribution to the legal fees for the Cola Ballena street maintenance agreement.

It was agreed that Mr. Hall and Mr. Stone would bring the agreement to the Board for its approval.

**ADJOURNMENT**

There being no further business before the Board, the meeting was adjourned at 9:55 p.m. The next meeting will be held on August 9, 1990 at 7:30 p.m.

*[Handwritten signature]*

Secretary

*[Handwritten signature]*

Recorded by

BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF JUNE 14, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by Vice President Marty Gross at 7:35 p.m.

ATTENDANCE

Present were Marty Gross, Andy Hall and Archie Stone. Also present were Rich Noble of Noble Community Management and homeowner members Charles and Shep Gallup, Joan Albin, Mary Neil, Josie Schwartz, Ken and Lorraine Roman, Hedy Thruston, Phil Braverman, Jim and Audrey Ehrlich, Ingrid Buono, Beverly Partridge and Sally Tonningsen.

MINUTES

MOTION: It was moved, seconded and passed to approve the minutes of the May 10, 1990 Board meeting as submitted.

TREASURER'S REPORT

Andy Hall reviewed the financial statements, noting that there were no large unusual expenses in May. He stated that the Association's revenue and expenses are well within the budget, with the exception of printing and mailing (due to extra mailings regarding earthquake preparedness and the rosters). Mr. Hall stated that 24% of the allocated funds for water has been expended, due largely to the water savings resulting from the improvements to the irrigation system, for a savings of over \$600 so far. He stated that the trash collection bill has increased more than \$100 per month over what it was at the beginning of the year. Mr. Hall recapped that the bills for the big anticipated expenses such as home repairs and piling and dock repairs have not been received yet, so it appears that those items are under budget.

MOTION: It was moved, seconded and passed to accept the Treasurer's Report.

MANAGER'S REPORT

Manager Rich Noble reported that piling work started on May 19th and is proceeding as anticipated. He reported that the floats and dock inspection report requested from Curt Bolton has been received, and copies were included in the Directors' packets.

Mr. Noble reported that painting is nearly complete on the homes at 459 - 465 Cola Ballena, with the exception of 461, to which the Association has been barred from access. He stated that work on 461 Cola Ballena is still pending a resolution to the Association's efforts to gain access through the courts, and that a hearing regarding the access is scheduled for June 22nd in the Superior Court, Department 1. Mr. Noble stated that inspections to 400 and 404 - 422 Tideway were performed on June 6th, and that repair work commenced on June 7th. He stated that he anticipates that repairs will take at least six to eight weeks, followed by painting. Mr. Noble stated that the owner of 402 Tideway has advised him that they do not want any repairs or painting accomplished, nor will they allow access to make an inspection of the property to determine the need for repair.

Mr. Noble reported that the storage container has been removed and that he had met with Mr. Gross regarding landscaping of the area, and Mr. Noble will be meeting with the landscape contractor next week. He anticipated that plans will be formalized prior to the next Board meeting.

MOTION: It was moved, seconded and passed to accept the Manager's Report.

## COMMITTEE REPORTS

1. Waterside Maintenance - Archie Stone reported that the piling repairs are moving forward and will continue for another month or so. He stated that the work will move to the 400 Cola Ballena/400 Tideway side starting June 16th, but that progress is slow as the contractor works on weekends only.

Mr. Stone reported that dredging permits are still in process, and that the Corps of Engineers 30-day notice period has almost run. He stated that it will take approximately two weeks after the end of the notice period to type the permit. Mr. Stone stated he will then provide copies of the Corps permit and all other dredging permits to the City of Alameda for their approval. He anticipated that the project should be ready to bid by July 15th, but expected few bidders as not many for dredgers would be able to get past the wave maze. Mr. Stone stated that he expected the dredging to be completed this season.

Mr. Stone reported that he and Jim Neil had made a final detailed survey of the floats. He stated that he had spoken with harbor master Don Anderson, who will provide a quote for removal of the floats from the water with his crane into a truck and disposal at Altamont Pass, and explained that the plan provides that the floats must be herded down to the crane by the Association. Mr. Stone stated that, since Mr. Anderson wants to do the work on a weekday, it might be preferable to ask Mr. Foulds and Mr. Bergstrom if they would allow the floats to be stored at their docks until they are moved the rest of the way to the crane.

Mr. Stone stated that many docks are badly in need of repair, the worst of which must be replaced this year. He stated that, as there are not enough funds to do all the repairs this year, he and Jim Neil will prioritize so that the docks in the worst state of repair are taken care of this year. Mr. Stone stated that it might be preferable to do the work in conjunction with the dredging, as the slips will need to be moved anyway, although it would not hurt to do them before the dredging.

MOTION: It was moved, seconded and passed to approve the report of the Landside Maintenance Committee.

2. Finance, Insurance and Legal Committee - Andy Hall reported that the Association's policy is up for renewal on August 1st, and that he has requested an estimate from Alameda Associates. He stated that, in light of the secession of the eleven homes on July 1st, the best plan may be to leave them in the policy and have them pay a prorated amount. Mr. Hall stated that this plan may also be proportionally in the Association's favor, as those homes have the highest recorded values. He reported that the Association's agent indicated she did not want to do anything about getting a quote for the separation as she felt it would be unwise to disturb the policy until renewal time. Mr. Hall stated that he thought the Association would be facing a significant reduction in its insurance premium on the new policy as over 10% of the homes are seceding and those homes represent more than 10% of the insured value because they are the newest homes.

Mr. Hall reported that the hearing on the Rascoe issue will be held on June 22nd. He stated that a letter had been received by the Mike Scholtes, the Association's attorney from the Great Sierra Group. Mr. Hall stated that Mr. Scholtes responded, taking the stance that he felt the Association is not liable as Barry Sgarrella was a businessman who entered into the agreement in good faith, and there was no way they could collect any money from the Association because he got the worst end

of the bargain. He also stated that, in the opinion of Mr. Scholtes, it would be financially unrewarding for the Association to go after the money it feels Sgarrella owes it. Mr. Hall stated that at some point the Association should write off the \$2,400 it feels Sgarrella owes, preferably at the point when Sgarrella gives up on it.

Mr. Hall called the Directors' attention to the Assessment Delinquency Control Policy provided by Mr. Noble, and recommended it be adopted. Mr. Stone stated that he felt that the wording was harsh, and as the policy only reflected existing law that he did not feel the need for its adoption. Mr. Noble stated that the policy should be published in order to be enforceable, but that it could be considered at the time when the annual budget is adopted. Mr. Stone stated that he would be more comfortable tabling discussion of the Assessment Delinquency Control Policy until consideration of the 1990-91 budget. There was no objection.

Mr. Hall reported that a meeting had been held between the Porta Ballena Homeowners, Ballena Bay Condominiums, the yacht harbor and Ballena Bay Townhome Association regarding maintenance of Cola Ballena and Porta Ballena. He explained that they had sent the Association a bill for 30% of the repairs to Porta Ballena, but that the members of the Association do not use Porta Ballena and have no agreement or obligation to share in the cost of the repairs. Mr. Hall stated that the worst result for the Association from the meetings is that its share will remain the same; the best case would involve reduction of the percentage attributed to the Association. He stated that Mr. Stone had met with representatives of the Ballena Village Apartments to start negotiation of an agreement as there is no known agreement between them and the Association. Mr. Hall stated that the information which has been gleaned from working with the three above-mentioned associations will also be used in the development of an agreement with the 500 block of Tideway Drive so that there will be similar agreements in each case.

MOTION: It was moved, seconded and passed to accept the report of the Finance, Insurance and Legal Committee.

3. Landside Maintenance - Mr. Gross reported that Sundance has begun repairing sprinklers throughout the development on a time and materials basis, and that the irrigation system seems to be working fine now. He stated that some new ivy and shrubs have been planted on Ballena Boulevard. Mr. Gross stated that Clancy reported that chips had been placed in front of her unit which, and he stated that he was not sure the chips called for in the landscape plans. He stated that the attempt is to fill in the major holes in the landscaping.

Mr. Gross stated that he and Mr. Noble had discussed plans for the area where the storage container had been, and he felt the area should eventually be planted with one or two of the red flowering trees on the perimeter in keeping with the rest of the street. He stated that on the other side he would like to see the lawn extended just to the tree line, and then do some planting behind. Mr. Gross suggested that a vine be planted on the fence to shield residents in that area from vehicle headlights. Residents who were present expressed their preference to keep the open view through the fence. It was suggested that the slats be removed and shrubs planted along the fence to screen the view without closing it off completely.

Mr. Gross stated that Manager Rich Noble will follow up to make sure the planting progresses while he (Mr. Gross) is away. Mr. Gross expressed concern regarding the

watering of the areas as there are no sprinklers along Cola Ballena to irrigate them. If he cannot find another solution, it may be necessary to knock on doors and see which residents do not mind having their water used.

Mr. Gross stated that Sundance has completed replacement of all the irrigation clocks throughout the site, which is resulting in water savings which are reflected on the water bill. Mr. Hall stated that the full savings may not have been reflected on the most recent bill as it covers only half the period since the new clocks were installed.

MOTION: It was moved, seconded and passed to accept the report of the Landside Maintenance Committee

#### RESIDENTS' TIME

Jim Ehrlich stated that, after the Board approved his minor home extension, he had been informed by the City of Alameda Planning Department that a total design review by the Planning Board, including hearings, notification of all property owners within a 200 foot radius of the home. He stated that he and Mrs. Ehrlich may decide not to proceed with their plans, and he wanted to inform other members of the red tape involved in such projects.

Mary Neil stated that the Barbeque Committee had met and planned the community barbeque for Sunday, July 1st. She stated that invitations will go out in the next few days. Ms. Neil stated that residents on Cola Ballena will bring hors d'oeuvres, Tideway residents will bring desserts and coffee, and Ballena Boulevard residents will bring barbeque equipment. She requested that the Board contribute funds to defray the cost of the beverages and meats. Mr. Stone asked whether any members objected to that use of funds, and there was no objection. Sally Tonningsen volunteered to go door to door to personally invite homeowners.

MOTION: It was moved, seconded and passed that the Association will underwrite the cost of beverages and meats for the community barbeque, at a cost not to exceed \$250.00, the funds to be allocated from the Neighborhood Communications account.

#### WRITTEN COMMUNICATIONS

1. Letter from Mr. and Mrs. Shiley Regarding Resolution of their Claims Regarding 400 and 320 Tideway

Mr. Stone explained that the Shileys wrote on May 23, 1990 and had previously written in September, 1988 regarding lack of maintenance. He stated that he could find only a reference to the letter in the minutes of the Board meeting following receipt of the letter, but no record that a response was actually sent. He stated that he wrote in response to their May 23, 1990 letter, acknowledging that there is a record of receipt of their 1988 letter but no record of any action or response, and apologizing for the lack of response. Mr. Stone stated that his letter further explained that it was an extremely confusing time for the Association due to elections and lawsuits occurring at the time, but did not excuse the lack of response. He stated that, although the Association acknowledged there has been poor maintenance for the past eight years, if it were to pay the Shiley's claim there were many other potential claimants who would come forward and that the Association would not be able to pay the claims without another special assessment,



which he felt would not pass. Mr. Stone stated that his letter concluded that the Association regretted it could not pay the Shiley's claim, and that he had received no response to the letter.

2. Anonymous Communication to Members Regarding Financial Status of a Member and Letter from Elizabeth Robertson on the Same Topic

Mr. Gross explained that two weeks ago, anonymous information had been placed in some of the members' mailboxes regarding the financial hardships of one of the members of the Association. Beverly Partridge stated that she and Sally Tonningsen had obtained signatures on a document from many members who found the anonymous correspondence objectionable. Mr. Stone read into the record the letter from Mrs. Robertson, also deploring the the vicious smear tactic represented by the anonymous communique.

MOTION: It was moved, seconded and passed that the Board; (1) acknowledges receipt of letters signed by a large number of homeowners and the letter from Elizabeth Robertson expressing righteous indignation at the malicious smear tactic employed in the anonymous distribution of private; and (2) indicated that it would not tolerate such a malicious attack on a member of the Association.

NEW BUSINESS

1. Rules Governing Storage in the Common Area - Mr. Stone distributed copies of the proposed rules, and explained the major issue relates to automobile parking. There was lively discussion on the proposal. It was the consensus of the Board to delete reference to parking in driveways, edit the rules, then distribute them to the homeowners for a hearing at the next Board meeting.

OLD BUSINESS

1. Great Sierra Group - This matter was addressed during the report of the Finance, Insurance and Legal Committee.
2. Proposed Ballena Isle Hotel - Mary Neil stated that she had attended the Planning Commission meeting regarding the proposed hotel, and asked whether the Board had issued any written statement on the Association's position regarding the hotel. She further asked whether Ballena Boulevard is maintained by the Association or the city, and she was informed that the city maintains the street. Mr. Stone explained that the Board could not take a position on behalf of the Association unless every member were polled and in agreement on the position.

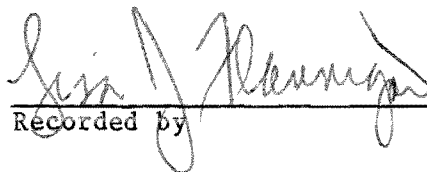
ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 9:15 p.m.

Secretary



Recorded by



BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF MAY 10, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by Vice President Marty Gross at 7:40 p.m.

ATTENDANCE

Present were Marty Gross, Andy Hall, Marcia Gerin and Archie Stone. Also present were Rich Noble of Noble Community Management and homeowner members Chas. and Shep Gallup, Joan Albin, Jim and Mary Neil, and Ruth Masonek.

MINUTES

Two corrections were noted to the minutes of the April 12, 1990 meeting.

MOTION: It was moved, seconded and passed to approve the minutes of the April 12, 1990 Board meeting as corrected.

TREASURER'S REPORT

Andy Hall reviewed the financial statements, noting that the garbage rate had increased by \$116 per month due to an earthquake-related extra fee the City of Alameda had allowed. He stated that water expense is down significantly, probably due to improved watering efficiency through installation of timers, etc. Mr. Hall stated that the Association is operating well within its budget, with a few minor exceptions, which he explained.

MOTION: It was moved, seconded and passed to accept the Financial Report.

MANAGER'S REPORT

Mr. Noble reported that pile driving work is tentatively scheduled to begin on May 19th by Estuary Pile Driving Service. He stated that the work will begin on the Naval Air Station end of the project, and that the contractor would like to store the new piles under the bridge so they can work from both ends as they progress through the development. Mr. Noble will ensure there is no effect on access.

Mr. Noble stated that he still has not received the report of the floats and docks inspection for Curt Bolton, who has promised to provide it when he and Mr. Noble meet on May 11th.

Mr. Noble reported that Nicely Done anticipates completing renovation work on the homes at 459 - 465 Cola Ballena on May 14. He stated that the owner of 461 Cola Ballena is still barring the Association or its contractor from accessing his property to make the repairs. Mr. Noble stated that the Association's attorney sent a letter to the owner advising him of the Association's desire to complete the necessary work and of the proposed legal action if legal access is not granted. He stated that he had spoken with the attorney since the letter was mailed, and the attorney indicated he intends to file a temporary restraining order. Mr. Noble stated that painting of the homes in that group will begin during the week of May 14th.

Mr. Noble reported that Sundance Landscape has been advised that the Association has accepted their bid to continue as landscape contractor, and that the contract is based on a three-month trial basis in order to evaluate their services based on the new specifications. He stated that he has scheduled a meeting with Rocky Troth of Sundance for Monday, May 14th.

Mr. Noble stated that he has not been successful in finding someone interested in the old chain-link fence, and that he will have Nicely Done remove the fence if he does not find a taker soon.

Mr. Noble stated that he had spoken with the City of Alameda regarding permits for the landing work and had been able to reduce the number of permits to one permit per landing, rather than one per unit.

#### COMMITTEE REPORTS

1. Home Maintenance and Architecture - Archie Stone stated that work on Cola Ballena is scheduled to be finished next week, and that work would then begin on Tideway Drive the following week.

He brought two architectural questions before the Board.

- a. Jack Coker, 445 Cola Ballena, has requested approval to move his upstairs wall out to the front, leaving the windows and railing in place. Mr. Stone recommended the Board approve Mr. Coker's request.

MOTION: It was moved, seconded and passed to accept Mr. Stone's recommendation to approve the request of Jack Coker, 445 Cola Ballena, to move the upstairs wall of his unit, provided there are no objections from his neighbors.

- b. Jim and Audrey Ehrlich, 412 Tideway Drive, have requested to move their second floor bedroom/den wall out in the same manner as proposed by Mr. Coker. The Ehrlich's also request permission to add a storage locker on their lower deck. There was discussion regarding which wall the locker would rest against and its dimensions. Mr. Stone recommended that the request be approved.

MOTION: It was moved, seconded and passed to accept Mr. Stone's recommendation and approve the request of Jim and Audrey Ehrlich, 412 Tideway Drive, to move their second floor bedroom/den wall and add a storage locker on their lower deck, provided there are no objections from their neighbors.

MOTION: It was moved, seconded and passed to accept the report of the Home Maintenance and Architecture Committee.

2. Waterside Maintenance - Mr. Stone gave background information regarding his application to the San Francisco Bay Conservation and Development Committee (BCDC), U. S. Army Corps of Engineers, and California Water Quality Control Board (WQCB) for dock maintenance and dredging permits. He stated that BCDC has approved the Association's dredging permit, but that it will take about another month to receive the Corps of Engineers permit. Mr. Stone stated that he had a blanket agreement from BCDC that the Association could maintain docks, and that the Corps of Engineers can grant a similar agreement if the WQCB writes a letter stating

agreement. Mr. Stone stated that he had written a letter to the WQCB requesting their agreement, but has received no response. He stated that, once he has the Corps and WQCB approvals in hand, he will take them to the City of Alameda for their approval.

Mr. Stone stated that the contractor intends to start pile driving at the West Tideway end as there are not dock changes planned for that area, and there are plans for changes at the other end.

MOTION: It was moved, seconded and passed to accept the report of the Waterside Maintenance Committee.

3. Finance, Insurance and Legal Committee - Andy Hall reported that Lots 52, 81, and 82 are over three months delinquent. He recommended that liens filed against the properties.

MOTION: It was moved, seconded and passed to file liens against Lots 52, 81 and 82.

Mr. Noble was instructed to send certified letters to the owners of Lots 20, 53 and 59 notifying them of pending lien filings regarding their delinquent accounts.

Mr. Noble reported that he had received 26 responses to the earthquake insurance survey, 19 in favor of obtaining the insurance and 7 opposed.

4. Neighborhood Communications - Marcia Gerin thanked Shep Gallup for her contributions to the newsletter, and solicited information and neighborhood news for inclusion in future editions. Mr. Stone offered the use of his computer for preparation of the newsletter.

MOTION: It was moved, seconded and passed to accept the report of the Neighborhood Communications committee.

5. Landside Maintenance - Marty Gross reported that he had walked through the property with Rocky of Sundance and two of his crew, and that the cleared areas are now ready for planting. He stated that planting schemes had been developed for Ballena Boulevard and Cola Ballena to fill in areas left open after removal of trees and ground cover, and that Rocky laid out the proposal in such a manner that it can be considered "per home".

Mr. Gross stated that Rocky had not understood that he was authorized to repair the irrigation system, and he had assured Rocky he was authorized to perform general maintenance at a charge for time and materials. He stated that his understanding of the schedule is as follows: Tuesday - watering and pruning at Cola Ballena and Ballena; Thursday - mowing; Friday - watering and pruning on Tideway. In response to a question, Mr. Gross stated that most areas are watered twice to three times per week and the lawns may be watered a bit more.

Mr. Gross stated that the proposal lists a cost of \$700 replacing some ivy and hedges on Ballena Boulevard, \$1,600 for shrub planting on Cola Ballena, \$2,945 for planting ground cover and shrubs in the older areas on Tideway, \$1,350 for replacement of irrigation system clocks with clocks which will accommodate additional stations in the future, and \$465 to move the clock on the Partridge's property and

replace a broken valve. He recapped that the total cost would be \$7,060, comprised of \$5,245 for planting and \$1,815 for irrigation work, which is within the budget.

MOTION: It was moved, seconded and passed to accept the proposal for Sundance to landscaping upgrade work at a total cost of \$7,060.

Mr. Gross stated that he has received many requests for tree removal, and suggested that the Board might want to establish a policy or poll the membership on the matter. He stated that trees should be replaced with others which are not as messy or with less intrusive roots. There was discussion regarding the best method of addressing tree root damage to sidewalks and driveways.

Ms. Gerin requested that the strip between 418 and 420 Tideway where some pyracanthas had been pruned and were now very unsightly, and Mr. Gross stated that the new specifications called for removal of the pyracanthas.

MOTION: It was moved, seconded and passed to accept the report of the Landside Maintenance Committee.

#### RESIDENTS' TIME

Charles Gallup volunteered to initiate action to get rid of the vehicles which are stored on the property. He stated that he will draft a policy statement for Board approval as to the definition of a stored vehicle, after which the membership can be notified of the policy. Dr. Gallup stated that, after an appropriate interval, owners of stored vehicles would be notified by mail, and that the matter might be handled by fining rather than having the vehicles removed. Mr. Stone explained that at a previous meeting the Board had voted to enforce the CC&R provision which provides that anything stored in the common area must be approved by the Board, and that he was to draft a statement to that effect. He stated that he had not done so, but has asked Dr. Gallup to draft a policy statement for Board adoption at its June meeting. Mr. Stone stressed that it was crucial to provide adequate notification to homeowners. There was discussion regarding whether parking in a driveway constitutes vehicle storage.

Dr. Gallup asked when the storage container would be removed, and Mr. Stone stated that he must first find storage space for the containers of paint which are now in the container, and that Manager Rich Noble is pursuing the possibility of giving the paint to a painter.

Mary Neil suggested that a social event, possibly a barbecue, be planned for this summer, and volunteered to chair such an event.

#### NEW BUSINESS

1. Letter from State Franchise Tax Board and Proposal for Preparation of Tax Exemption Application from Edward W. Riback, CPA - Mr. Noble explained that the Association has not previously filed for a tax exemption, as it had not been affected this year, but that it could be affected in the future. He stated that he was recommending the Association go through the process, although some accounting time will be involved. In response to a question, Mr. Noble stated that the Association is currently paying corporation taxes. He explained that it had not hurt the Association this year, but that as reserves and interest income increase, it will be helpful to have the option to file as a mutual benefit corporation.

MOTION: It was moved, seconded and passed to accept the bid from Edward W. Riback, CPA for \$350 to file a California tax exempt application on behalf of the Association.

2. Discussion of Farmers' Market Proposed for Central Avenue - Ms. Gerin asked Shep Gallup to provide information on the status of the proposed farmers' market. She explained that the current plan is to hold the farmers' market on Central Avenue west of Webster Street, and that trucks of produce will be parked on both sides of the streets. She stated that it is anticipated that 2,000 individuals will visit the market, and that the street will probably be closed from 6:00 a.m. until 2:00 p.m. on market days. The Board took no official position on the matter.

#### OLD BUSINESS

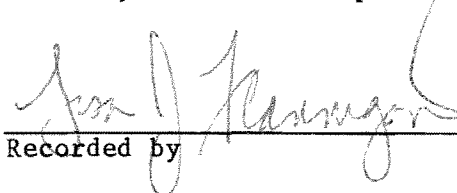
1. Update Regarding Porta Ballena - Andy Hall reported that he had spoken with Hans Boekencamp regarding Porta Ballena's request for assistance with repair of the street on Porta Ballena, and Mr. Boekencamp has been unable to furnish documentation that the Association is responsible for the street. He stated that Mr. Boekencamp wants to set up a meeting at 7:00 p.m. on May 21st between Ballena Bay Homeowners Association (to be represented by a member of the Board of Directors) Porta Ballena, and the Harbormaster. It was Mr. Hall's opinion that Porta Ballena intends to negotiate a new street agreement.
2. Great Sierra Group - Correspondence from Association's Attorney - Mr. Hall stated that Mr. Scholtes' had informed him that it was his professional opinion that Association owes the Great Sierra Group nothing, that Barry Zgarrella knew what he was doing when he entered into the agreements, and that there is no proof of any undue duress by the Association. Mr. Hall further stated that Mr. Scholtes' recommended the Association investment no money in attempting to reclaim what is owed it by the Great Sierra Group.
3. Secession - Mr. Hall reported that the hearing for the eleven homes which are petitioning the court regarding seceding from the Association. Mr. Stone stated that he would attend, but that he would will make it clear that the Board has taken no official position on the matter as it feels it is a matter for the members to decide.

#### ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 9:10 p.m. The next meeting will be held on June 14, 1990 at 7:30 p.m.



Secretary



Recorded by

BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF APRIL 12, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by Vice President Marty Gross at 7:40 p.m.

ATTENDANCE

Present were Marty Gross, Andy Hall, Bob Smith, Marcia Gerin and Archie Stone. Also present were Rich Noble of Noble Community Management and homeowner members Chas. and Shep Gallup, Joan Albin, Jack Coker, Agnes Ringo, Jim and Audrey Ehrlich, Hedy Thruston, Sally Tonningsen, Tom Williams and Jeff Frankel.

MINUTES

One correction was noted to the minutes of the March 8, 1990 meeting.

MOTION: It was moved, seconded and passed to approve the minutes of the March 8, 1990 Board meeting as submitted.

TREASURER'S REPORT

Andy Hall reviewed the financial statements, stating that the Association is operating well within its budget. He reported that a lien has been placed on the property at 308 Tideway for delinquent dues.

Mr. Hall stated that a quote had been received for an earthquake insurance premium, and that he would like to solicit input from the members before the Board acts on the matter. It was agreed that an item would go out with the newsletter which includes a section to fill in comments, tear off and return. Mr. Noble will provide an explanation of the deductible to go along with this item.

MOTION: It was moved, seconded and passed to approve the Treasurer's Report.

MANAGER'S REPORT

1. Pilings - Mr. Noble reported that the Association has entered into a contract with Estuary Pile Driving Services for the replacement of 30 pilings, and that work should begin in mid-May. He stated that one pile was replaced at 400 Cola Ballena on April 7th after the original piling had broken off during a winter storm, and that the work was accomplished prior to the rest of work due to the hazardous condition created by the missing pile.
2. Rear Deck Stair/Landing Inspection - Mr. Noble called members' attention to a copy of the inspection report included with their meeting packets.
3. Floats & Docks Inspection - Mr. Noble reported that Curt Bolton has completed his inspection and prepared and mailed a written report, that he has not received the report, and that he will distribute copies to the Board once he receives it.
4. Building Renovation Project - Mr. Noble reported that work began on April 2nd at 459 - 465 Cola Ballena. He stated that access to 461 Cola Ballena has been refused by the unit owner, and that written notice (prior to work starting) and

other attempts to resolve the matter have been unsuccessful. Mr. Noble called members' attention to a copy of the letter received from the unit owner which is included with their meeting packets, and stated that he had forwarded a copy to the Association's attorney, who is preparing a letter to the unit owner. Mr. Noble stated that an outside expert had inspected the areas which were marked for repair and/or replacement, who had concurred with the planned work.

5. Painting Proposal - Mr. Noble called members' attention to the copy of the proposal from Steve Tingley Painting for painting of 459 - 465 Cola Ballena, at a total contract price of \$5,536 (an average of \$1,384 per home). He stated that he also received a proposal for seal coating of wood decks, balcony floors, landings and steps for an average of \$105 per townhome.
6. Landscape Service Bids - Mr. Noble reported that landscape bids had been requested from five contractors, and that three had responded with proposals, which Marty Gross will detail as part of his report of the Landside Maintenance Committee.
7. Management Contract - Mr. Noble stated that the contract between the Association and Noble Community Management technically expired as of March 31, 1990, and that he is providing services on a month-to-month basis. His report noted an increase in the management fee to \$1,320 per month effective from April 1, 1990.

#### COMMITTEE REPORTS

1. Home Maintenance and Architecture - Archie Stone reported that the carpentry work will be finished on the first groups of homes within two weeks, and that painting will then begin.

Mr. Stone stated that the container had been cleaned out, vegetation removed from around the outside, and the contents sorted. He stated that a yard sale had been held to dispose of any contents with value, generating proceeds of \$461. Mr. Stone stated that the remaining contents are materials to be used for home repairs, and he would recommend renting storage space from the yacht club to store the items. He stated that Mr. Gross had received a "sight unseen" quote from someone who will come and get the container and pay the Association \$1,000 for it. Mr. Stone stated that he felt the container would be ready to remove in about two weeks. Mr. Gross stated that the party who had made the offer for the container has called again to ask when it would be available, so he is still interested. Mr. Stone stated that, once the container is removed, he wants to take down the fences and landscape the corner similar to the other side of the bridge.

MOTION: It was moved, seconded and passed to: (1) dispose of the materials in the container which have no value to the Association in the most expeditious manner; (2) store the items with value to the Association in an appropriate place, thereby emptying the container; (3) sell off the container for the best price; (4) remove the containment fences; and (5) landscape the corner appropriately with the proceeds from the sale of the container and its contents and funds donated specifically for that purpose.

Mr. Stone recapped the history of the color selection issue, and stated that the Landside Maintenance Committee had adopted some of the changes suggested by homeowners. He stated that the Committee then carried out the balloting procedure for color selection and read the Committee's report into the record.



Mr. Stone explained that a group of homes, 1223 - 1237 Ballena Boulevard, in a letter signifying unanimous agreement of all eight homeowners, had selected Greystone as their base color, but requested that the trim color not be Sequoia Red, which had been the accompanying trim in the color sets on which voting was to be based. He stated that the Committee recommends that this group be allowed to select one of the other combinations except the combination already selected for the adjacent buildings (1201 - 1215 Ballena Boulevard). Mr. Stone stated that the poll revealed Teton Blue to be the trim color selected by all other units, and that an alternate solution would be to use it as the trim color on all units, to serve as a unifying color throughout the development.

There was discussion regarding the white trim around garage doors and windows and the color of the garage doors. Ms. Gerin stated that she had served on the Architectural Committee, but had not been consulted nor invited to attend a meeting where those choices were discussed. She stated that she had expressed her dissatisfaction with the window trim and garage door colors to President Smith.

MOTION: It was moved, seconded and passed to adopt the recommendation of the Landside Maintenance Committee regarding paint color selection, and the Board specifically recommends for the homes at 1223 - 1237 Ballena Boulevard Greystone base color with Teton Blue trim. The Board leaves them the option, if they don't like that combination, to select one of the other combinations except the combination which has been selected by 1201 - 1215 Ballena Boulevard. Ayes: Hall, Stone, Smith. Nay: Gerin.

2. Waterside Maintenance Committee - Mr. Stone reported that a pile had been driven at Terry Klaus' home on an emergency repair basis, and that the Association has received blanket permits from the Bay Conservation and Development Commission and the U. S. Army Corps of Engineers for dock maintenance and repairs. He stated that the City of Alameda has indicated it will require a permit every time any repairs are made, and stated that Mr. Noble will investigate.

Mr. Stone stated that Nicely Done performed a survey of every landing, and their report reveals that the landings are toward the end of their useful life. He stated that Nicely Done estimates a cost of \$1,200 to replace each landing. Mr. Stone stated that the Board had budgeted for replacement of all of the landings over the next four years, at a rate of ten landings per year, for an annual cost of \$12,000. He stated that Nicely Done has been asked to replace the ten worst landings this year, and the first landing has already been replaced.

MOTION: It was moved, seconded and passed to accept the bid from Steve Tingley Painting for painting of the first four homes.

3. Neighborhood Communications - Marcia Gerin reported that the newsletter had been sent out, but was very sparse as she had only received input from Shep Gallup. She encouraged members to provide information for the newsletter.
4. Landside Maintenance - Mr. Gross presented a bill for removal of the pine trees and trimming of the Cypress trees. He reported that Mr. Noble had received bids for landscape maintenance: All Seasons North Bay Landscaping - \$2,121; Sundance (current contractor) - \$2,865; and TriMacs Maintenance and Landscape - \$3,100.

Mr. Gross stated that the new specifications required three days a week service instead of the two days per week which Sundance has been providing. He stated that common practice is to throw out the high and low bids and accept the middle bid, which in this case would be the existing contractor. It was his suggestion, in light of the change in the specifications, that Sundance be given a three-month contract along with a punch list of projects which must be accomplished and monitored closely, leaving the option to make a changes after three months if they still don't perform. Mr. Noble stated that two days per week is not sufficient to provide the level of service desired, and stated that it takes at least a year for a landscape contractor to become familiar with a property. For these reasons, he concurred Mr. Gross' recommendation.

There was discussion from the audience regarding dissatisfaction with the performance of the current contractor.

President Smith stated that the irrigation system is a prime consideration, and concurred that it was not a good time to change landscape contractors. He stated that it was his understanding that the contract contains a thirty-day cancellation clause, and Mr. Noble confirmed that it did.

MOTION: It was moved, seconded and passed to accept the bid from Sundance Landscaping with the knowledge that the contract contains a thirty-day cancellation clause, monitor their performance closely, and perform a formal review at the June Board meeting. Ayes: Hall, Smith, Stone. Nay: Gerin.

It was suggested that someone be hired to sweep regularly, and Mr. Noble was asked to relay the suggestion to Sundance along with concerns of the members and the Board.

Mr. Gross reported that several areas had been cleared of weeds, and suggested that planting begin in some of the resulting bare areas. He solicited members to participate on the Landside Maintenance Committee to accomplish that project. Mr. Gross thanked Jim and Mary Neil for planting jasmine along the cyclone fence in the common area, noting it was a major improvement. He stated that he and Jim had worked on the sprinklers in their area, and they are now functioning.

Andy Hall asked if anyone knew who had cut the trees near his home, between 455 and 459 Cola Ballena. The responsible party was identified and Mr. Gross stated that he would provide the name to Mr. Hall.

#### RESIDENTS' TIME

Jim Ehrlich questioned the role of homeowners at the Board meeting. Mr. Gross explained that, although members are heard at the Board's discretion, it was the current Board's feeling that there had been very little communication between members and the Board in the past, and wished to encourage input within the framework of a productive meeting. President Smith concurred, and stated that perhaps some of the member input could be passed on prior to the meeting. Mr. Ehrlich congratulated the Board on the democratic way the meetings were run and their openness to homeowner participation.

Charles Gallup stated that the Association paid \$1,200 in 1972-73 to Panages for landscape maintenance, and that, allowing for inflation, the cost should be between \$3,000 - \$4,000 per month now.

WRITTEN CORRESPONDENCE

1. Letter from Steven Yanics, President of Ballena Bay Condominium Association

Mr. Gross stated that Mr. Yanics is asking that the container be removed. Mr. Noble was asked to inform Mr. Yanics of the Board's action regarding the container.

2. Letter from Jack Coker, 445 Cola Ballena

Mr. Gross stated that Mr. Coker is requesting permission to extend his lower deck 36". Mr. Stone stated that he had inspected the area, that the proposal is similar to what has been done at adjacent properties, that his neighbors agree, and that he recommends approval of the request.

MOTION: It was moved, seconded and passed to approve the request of Jack Coker at 445 Cola Ballena to extend his dock 36".

Mr. Stone stated that he would send official notification of the Board's action to Mr. Coker.

3. Letter from Jerry Rasco, 461 Cola Ballena

Mr. Gross stated that Mr. Rasco is requesting that the Association not repair his home. Mr. Stone stated that Mr. Rasco will receive a letter from the Association's attorney in response to his letter.

NEW BUSINESS

1. Management Contract Renewal

Mr. Noble stated that he is requesting a 12% increase in his management fee due to the major construction projects the Association is undertaking and planning to undertake, and stated that that rate is still below the rate he charges at other sites. Mr. Stone stated that the increase comes out to \$14.50 per home.

MOTION: It was moved, seconded and passed to renew the management contract with Noble Community Management and accept the increase in management fees to a rate of \$14.50 per home.

OLD BUSINESS

1. Porta Ballena

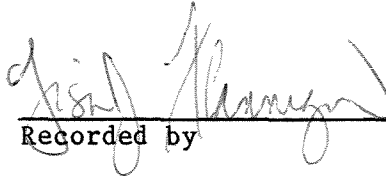
Andy Hall stated that he can't find any reference to a requirement that Ballena Bay Townhome Association share in the cost of maintenance to Porta Ballena. He stated that he intends to inform Mr. Boekenkamp that Ballena Bay Townhome Association will not pay unless he furnishes proof that Ballena Bay Townhome Association must share in the cost of maintaining Porta Ballena.

ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 9:45 p.m. President Smith apologized for his recent absences from Board meetings, and complimented the Board on their progress. He stated that he had a conflict with the next regular meeting date of May 10, 1990, and asked whether the meeting could be rescheduled to the first week in May so that he could attend. As Manager Rich Noble would be unable to attend a meeting during the first week in May, the next meeting will be held on May 10, 1990 at 7:30 p.m. as planned, and President Smith will try to rearrange his schedule so that he can attend.



Secretary



Recorded by

BALLENA BAY TOWNHOME ASSOCIATION  
BOARD MEETING OF MARCH 8, 1990

MINUTES

CALL TO ORDER

The meeting was called to order by Secretary Archie Stone at 7:35 p.m.

ATTENDANCE

Present were Andy Hall, Marcia Gerin and Archie Stone. Also present were Rich Noble of Noble Community Management and homeowner members Chas. and Shep Gallup, Joan Albin, Agnes Ringo, Jim and Audrey Ehrlich, Eloise Lillywhite, Florence Vickery, Hedy Thruston, Sally Tonningsen, Tom Williams, Phyllis McGrew, Jack Likins, Phyllis Iacampo, Jeff Frankel and Ken and Lorraine Roman.

MINUTES

No corrections were noted to the minutes of the February 8, 1990 meeting.

MOTION: It was moved, seconded and passed to approve the minutes of the February 8, 1990 Board meeting as submitted.

TREASURER'S REPORT

Andy Hall reviewed the financial statements.

MOTION: It was moved, seconded and passed to approve the Treasurer's Report.

MANAGER'S REPORT

1. Annual Audit - Mr. Noble reported that the audit has been completed, that the Board had made no changes, and that it is now at the printer being reproduced for distribution to all homeowners. Mr. Hall noted that the distribution of the annual audit is taking place this year about six months earlier than usual.
2. Piling Project - Mr. Noble stated that he had put out requests for bids, and that Board members had been provided with copies of the two bids which had been received.
3. Property Line Fence - Mr. Noble stated that the fence at the end of Tideway as the bottom part of it has deteriorated and fishermen have been climbing under it. He stated that one quote had been received at \$1,080 and another at \$900, and he stated that he would accept the low bid.
4. Landscape Maintenance Contract - Mr. Noble stated that he is requesting bids, and has scheduled a bid walk for March 12th. He stated that bids should be received the following week, and he will distribute them to the Board as soon as they are received so that the Board can act on the contract at its next meeting.
5. Correspondence - Mr. Noble stated that he had received a letter from the Great Sierra Group, forwarded by attorney Mike Scholtes, as well as a letter from the law firm of Lawson, Burnham and Trutner, who will be representing the Association in relation to the Gutleben case.

## COMMITTEE REPORTS

1. Home Maintenance and Architecture - Archie Stone explained that members had been informed prior to last month's Board meeting that the issue of home colors would be addressed, and that there was much discussion but no decision made at the meeting. He stated that the input was useful, and that members left with the knowledge that it was time to meet with their adjacent neighbors to discuss the selection of colors and forward their input to the Board as quickly as possible for action. Mr. Stone stated that Home Maintenance and Architecture Committee had met to consider the how the homeowners could agree on what colors to paint the homes, and introduced Jeff Frankel, who presented the Committee's recomme\*\*ations.

Mr. Frankel explained that the community would be divided into 10 groups of homes with either adjacent walls or fences and docks which tie them together. He stated that the Committee had agreed on four of the original color schemes which had been approved by the Board and one additional color scheme. Mr. Frankel stated that the Committee recommends that no two adjacent groups be painted the same color scheme. He stated that homeowners are being asked to select a first and second choice of color scheme, and if two adjacent groups select the same color scheme, the groups of homes with the greatest consensus will be painted in their first choice colors and the adjoining group will be painted their second choice.

Mrs. Lillywhite stated that she and her neighbors on Ballena Boulevard do not like any of the color schemes under consideration, and that they had agreed that earth tones would be more appropriate. Mr. Stone suggested that the Committee review the colors suggested by Mrs. Lillywhite and her neighbors and be given authority to add them to the choices or not at its discretion after serious consideration.

Mr. Stone stated that the Committee is asking the Board to approve the color schemes and plan for selecting which homes will be painted which colors. He stated that if the plan were approved at the meeting, the Committee will prepare to mail the ballots to all homeowners next week. Mr. Frankel explained how the balloting process would work.

MOTION: It was moved, seconded and passed to accept the recommendation of the Home Maintenance and Architecture Committee regarding color schemes, leaving open to the Committee the possible addition of another color scheme as proposed at this meeting, at its option, and then to send out the ballots.

2. Waterside Maintenance

- a. Dredging Permits - Mr. Stone stated that applications have been submitted to the Bay Conservation and Development Commission (BCDC), the U. S. Army Corps of Engineers and the Regional Water Quality Control Board (RWQCB), explaining the the Association plans to pump out sediment from under the docks and place it in the middle of the channel. He stated that the Corps of Engineers has indicated the dredge spoils must be hauled to Alcatraz or disposed at a landside disposal site, but that otherwise they see no problems with the proposed dredging. Mr. Stone stated that the RWQCB has indicated that no soils samples will be required, and that they will inform the Corps of Engineers and BCDC. He stated that a dredging permit would probably be received in May, but that he has not doubt the permit will be granted.

- b. Dock Maintenance - Mr. Stone stated that BCDC has asserted its jurisdiction regarding the dock maintenance, and that the Association must obtain a permit. He stated that they had suggested that the dredging permit application be amended to include the dock maintenance, which he will do.
- c. Landings - Mr. Stone reported that Tim McNeil of Nicely Done will perform a detailed survey of the landings in the coming week and submit a prioritized estimate of needed repairs.

MOTION: It was moved, seconded and passed to accept the report of the Waterside Maintenance Committee.

3. Finance, Insurance and Legal - Mr. Noble reported that the Association's insurance agent has inspected the site and is putting together a proposal for an earthquake insurance package for the Board's consideration. He explained that quite often the deductible on such policies is too high to make the coverage worthwhile, but that rates have come down somewhat. Mr. Noble stated that about half of the homeowners' associations he works with have earthquake insurance, and that some have considered earthquake insurance on a special assessment basis as it is so controversial and the cost of premiums fluctuates so frequently.

MOTION: It was moved, seconded and passed to accept the report of the Finance, Insurance and Legal Committee.

4. Neighborhood Communications - Marcia Gerin stated that no newsletter had been prepared last month as she had received only one article, a summary of actions taken at the previous Board meeting written by Mr. Stone. She encouraged members to contribute articles or suggestions for articles in the newsletter. Ms. Gerin solicited volunteers to assist with hostessing at the next Board meeting.
5. Landside Maintenance - Mr. Noble reported that the tree work has commenced. He stated that a car had knocked a tree over, and that the Bureau of Electricity had removed it.

Mr. Stone reported that the container cannot be moved to the marina parking lot. Ms. Gerin stated that the Board had decided at the previous meeting that the container would be disposed of if a new location could not be found, and Mr. Stone stated that the Home Maintenance and Architecture Committee will find a location to store the contents of the container.

#### RESIDENTS' TIME

Shep Gallup stated that the reflectors on the traffic island on Cola Ballena have been broken and need to be replaced, and that the curb should be painted white. Mr. Noble stated that he would investigate.

In response to a question, Mr. Noble stated that the landscape contract has been put out to bid, and that a bid walk would take place on March 12th.

Sally Tonningsen stated that the shutters at 421 Cola Ballena need to be painted. Mr. Noble stated that he had called the contractor and not received results, and that he would follow up.

Mrs. Thruston requested someone come out to inspect her deck, and stated that the painters had failed to place drop cloths, and had therefore painted her deck furniture. Mr. Stone explained that the deck is the homeowner's responsibility. Mr. Noble stated that all homeowners were notified in advance of the painting that they would need to move or protect any items on the decks.

Chuck Gallup stated that, regarding the parking problem, page 21 of the CC&Rs contains the statement that "Nothing shall be stored in the common area without the approval of the Association", and asked whether the issue could be addressed from that angle. Mr. Stone stated that the Association can adopt policy that it will adopt the same rules for parking in the private streets of the community as the City of Alameda has adopted for control of parking in the public streets. Mr. Hall stated that there is no distinct parking code for the City of Alameda, but that the code sections pertaining to parking are interspersed among the municipal code, which would make it very difficult to isolate.

MOTION: It was moved, seconded and passed that the provision of Article XI of the CC&R's, Use Restrictions, Section 1, Resident's Lots and Common Area, Subsection c which states: "Nothing shall be stored in the common area without the prior consent of the Association", shall be enforced.

Mr. Stone will write a letter notifying all members of the Association of the action, explaining the criteria determining which cars would be subject to the provision.

#### WRITTEN CORRESPONDENCE

1. Letter from M. B. Thruston, 435 Cola Ballena, Requesting Rehearing of Deck and Dock Proposal of 441 Cola Ballena - Mr. Stone summarized that the Board had approved the Robin Loh's proposed deck project at the last meeting, but had tabled action on the dock. He stated that Mr. Thruston had written a letter objecting to the deck extension and the proposed changes to the dock. Mr. Stone stated that Marty Gross met with Tom Williams (the contractor for the project) and Mr. Thruston, and agreement was reached that the dock would be angled 45 degrees. He stated that Mr. Loh's neighbors have withdrawn their objections to the proposed changes to the dock.

MOTION: It was moved, seconded and passed to approve Robin Loh's request for dock changes at 441 - 447 Cola Ballena.

2. Letter from Wesley Giles, President of Porta Ballena Homeowners Association to Robert Smith, President of Ballena Bay Townhome Association, Requesting Reimbursement for Repair of Common Street Damaged by Earthquake - Mr. Hall agreed to talk with Hans Bockenkamp and investigate whether Ballena Bay Townhome Association is responsible for any of the cost of repairs, and was given authority to write a check for the amount he determined was legitimately owed by the Association.

#### NEW BUSINESS

1. Renovation/Rehabilitation Work - Mr. Noble stated that he had met with Mr. Stone and Tim McNeil of Nicely Done, then had spoken with the Association's attorney,