

**Rio Buena Vista  
Board Meeting Minutes  
November 9<sup>th</sup>, 2019  
First Draft – Subject to Board Approval**

The Board Meeting was called to order at 9:00 A.M.

In attendance were Board Members Allen Lyon, Otto Hinderliter, Mark Bantle, Scott Morgan, and the Community Association Manager Amy Telnes. General Members present were asked to sign an attendance sheet that will be kept on file with these Minutes. Quorum was confirmed with 4 Board Members present.

**General Business:**

The Board reviewed the 8-24-2019 Board Meeting Minutes.

**Action: Upon motion made and seconded, the Board Meeting Minutes were unanimously approved.**

The Board Reviewed the 9-30-2019 Financial Statements.

**Action: Upon motion made and seconded, the Financial Statements were unanimously approved.**

The Manager Amy Telnes reported she will be sending the year end mailing to all of the owners and asked if there was anything the Board would like to add. Board Member Allen Lyon requested the changes in the rules and the violation policy be highlighted. There was a discussion regarding the expense of mailing. We would like to email them in the future. To comply with the law, they will continue to be mailed.

The Manager reported the Reserve Study Update has been ordered. This year the lowest level is required and the cost is \$350. It should be done in a couple of weeks.

Frank Padilla provided a Legal Committee update regarding ownership of the water and sewer lines in the Community. On February 19<sup>th</sup>, 2019 the Legal Committee met with the Attorney who represented the Varela's, Robert Tyler. On April 30<sup>th</sup>, 2019 the Board agreed to pay a \$7500 retainer to the Attorney to review all of our documents and make a recommendation on how to proceed to the Board. Frank spent 6 hours with the Attorney reviewing the documents Frank had compiled. The Attorney prepared his opinion and recommended a demand letter be sent to the City. At the August Board Meeting, the Board approved the sending of the demand letter stating the City owns the sewer and water lines. The City is not obligated respond. The letter was sent on September 11<sup>th</sup>, 2019. The Attorney confirmed the City had received the letter. On October 15<sup>th</sup>, 2019 our Attorney was called by an Attorney representing the City. He asked that we hold off filing the lawsuit to give him a chance to talk to the City officials and the staff to see if anything can be done before a lawsuit is filed. It was posted on the City's website that a closed executive session Council Meeting was set on October 22<sup>nd</sup>, 2019 to review the letter from Rio Buena Vista. Frank recommends moving forward and filing the lawsuit. To do that will require the Board authorize a \$7500 payment for a retainer. Dennis Chance from the floor said if the City has a smoking gun they would have shown it by now. Board Member Allen Lyon asked that all comments be saved and at the end of the meeting everyone will have an opportunity to address the Board. Frank reported the time frame for a lawsuit will be 1 ½ - 2 years, and the costs are estimated at \$100,000 - \$200,000. Allen Lyon asked where the money will come from. Boyce Godsey from the floor said you get a loan or send a special assessment vote. \$1,000 - \$2,000 per home would be the estimated special assessment. An owner from the floor asked what the difference is in fixing it vs. the lawsuit. We don't know all of the costs to fixing the sewer lines yet. We have had difficulty getting bids. The City did a feasibility study for the special assessment district we believe is out of line at \$1 million to \$2 million dollars. An owner from the floor asked what the maintenance fee on the back of everyone's utility bill is and where does it go. Board Member Allen Lyon asked the City Manager that and was told it goes towards the treatment plant and lines going in and exiting our system. The Attorney did include the question of the maintenance fees paid by Rio Buena Vista owners in his demand letter. Board Member Allen Lyon reported that many years ago the Board hired someone to camera

the lines. It shows the restaurant does empty into our sewer, but the marina does not. The restaurant flows to us, and we flow into Colorado Shores, that is how it works. An owner from the floor asked how many homes in Rio Buena Vista do not belong to the HOA and what has been done to have them pay for the water and sewer lines. Nothing has been done to make the 6 homes that are not part of the HOA to pay toward utility repairs. Frank Padilla reported the original buyers from Kahala built their homes and connected to these lines before the HOA and there is something in place regarding their utilities. Frank Padilla stated we could probably charge something for the use of the private roads. The Board will hold a closed executive session after this Board Meeting to decide the next step.

### **Old Business:**

The Manager reported that BSE Engineering withdrew their bid to investigate the costs of repairing the sewer line. Dennis Chance from the floor stated he called Wade Phillips and he said they are willing to help. The Manager Amy Telnes has already mailed them the video of the lines and all the paperwork we have in our files. Dennis Chance said Phillips didn't want to fix just one section, which is what we had asked them to do. The Manager and Board told Dennis Change we will appreciate Phillips review of the information and their professional opinion and bid on everything they believe needs repairs. Board Member Allen Lyon recommended the Manger reach out Red Hawk who used to manage the cleaning of our sewer lines many years ago for a second bid.

The Amy Telnes Manager reported she had the palm trees removed and the stumps ground where the cement was being lifted in the pool area. The Manager Amy Telnes asked for direction on what more to remove. The Board asked that all the palm trees inside the pool area be removed. Boyce Godsey from the floor said you have to skin the palms to stop them from spreading wider. The Board asked that the palm trees outside of the fence be skinned.

Board Member Allen Lyon reported that the beach and the rip rap slope the Association leases from the State on the south beach had been cleaned of weeds and grass. An owner from the floor asked why the north beach isn't cleaned as well. No one has ever requested work on that beach and the owners in that area lease the rip rap slopes. Allen Lyon stated he is not opposed to cleaning up that Beach as well

**Action: Allen Lyon made a motion to stay on top of the weed control of both the north and south public beaches in Rio Buena Vista. Board Member Mark Bantle will agree if it is only down on the sand. Board Member Otto Hinderliter seconded the motion specifying down on the sand only. Vote 4-0.**

### **New Business:**

The Board reviewed the Proposed 2020 Budget. The Manager Amy Telnes reviewed highlighted line items where Board input on the amounts is needed. Legal and Attorney fees were set at \$10,000. If we proceed with the lawsuit, we will have to address where the money to fund it will come from. Landscaping projects will be budgeted at \$5,000. Property repairs and maintenance will be budgeted at \$10,000. The Manager's Contract was revised and reviewed since nothing had changed in 7 years. The scope of work will remain the same. The monthly fee was increased \$50.

**Action: Upon motion made and seconded, the 2020 Budget and Manager's Contract were unanimously approved.**

**The next Board Meeting was set for January 18<sup>th</sup>, 2020 at 9:00 A.M. in the pool area.**

Board Member Allen Lyon opened the meeting to comments from the floor. Owners were asked to raise their hands if they were against moving forward with paying the \$7500 retainer and filing the lawsuit. No hand was raised.

One owner made the statement that either way we have to pay.

One owner stated she supports continuing on with the Attorney.

One owner stated concerns about litigation. Once the HOA moves forward with litigation you will need to disclose it and funding could be a problem.

One owner asked if the Varela's just said we're done fighting the City over the utilities or did they pursue it and they lost. Frank Padilla answered that when the Varela's questioned ownership things were looked into and it all stopped when the Varela's were filing bankruptcy. The Varela's had many issues at that time and this issue was not a top priority for them.

Frank Padilla said if the City owns the utilities, we have more options to get things replaced. To take ownership of this we're taking a risk. Frank wants the Board to file the lawsuit

One owner asked if there has been any contact from the City since the Council met on October 22<sup>nd</sup>, and if not, what is a reasonable time for the City to respond. The City has not responded and the Board will discuss that in the closed executive session.

**Action: With no further business, upon motion made and seconded, the Board Meeting was adjourned at 10:18 A.M.**

Signed this 25<sup>th</sup>, day of January, 2020.

By:   
Mark Bantle, Secretary