

**Condominium La Jolla Cluster I
Annual Ordinary Homeowners Assembly
November 7, 2009**

The Annual Ordinary Homeowners Assembly is held at the Arroyo Seco area in La Jolla.

First call is made at 7:30 AM, and the required quorum of 90% is not met; second call is made at 8:00 AM, and the required quorum of 51% is not met. Third and final call is made at 8:30 AM and the attendance is of 90.54%.

Attendants are welcomed and the process for the conduction of the meeting was explained.

AGENDA

I. OPENING

- **Registration of Homeowners or proxies.**

Homeowners and proxies registered upon arrival and the quorum obtained for this assembly meeting is 90.54%.

- **Election of Chairman of the Assembly**

Bill Shurtleff is nominated and appointed as Chairman of the Assembly.

- **Election of Tellers**

Ken Kimble, D-307 and Bill Deatsch, G101 are nominated and appointed as Tellers of the Assembly

- **The Manager will act as Secretary (Bylaws, Art.65). She shall appoint the person who will take the official minutes.**

Ileana Ceseña as Manager appoints Patricia Valdés to be the person who will take the official minutes.

- **Introduction of the Board of Directors and the Manager.**

The Chairman introduced the members of the board

- **Homeowners' approval of last year's minutes.**

The chairman made a motion to approve last year's minutes. Motion seconded and carried.

- **Approval of the Agenda.**

The chairman made a motion to approve the Agenda of this meeting. Motion seconded and carried.

II. OFFICERS REPORTS

- **Approval by the Assembly of all actions taken by the Board of Directors from Nov. 9th, 2008 to November 6th, 2009**

Emma Vargo, F211 moved to approve all actions taken by the Board of Directors from Nov. 9th, 2008 to November 6th, 2009. Seconded by Sandy Garner E205. Motion passed unanimously.

- **Manager's report.**

Ileana Ceseña informed about the projects that were done during the summer time. It included the re-roofing & paint of D building, repairs of the bridges of the common areas, replacement of the broken terrace caps around the buildings and re-building of the three water fountains of the development.

III. BYLAWS REVISION

Minor Changes and Revisions to the La Jolla Bylaws

The following changes are to correct obsolete, incorrect words, meanings or very minor in nature or to conform with the new Real Condominium property law of Baja Sur:

Index Title Three Chapter 2 changes "**committee**" to "**Board of Directors.**"

Index Title Four changes "**Management**" to "**The Administrator.**"

Art 3 Adds "**partnership**" as a possible co-owner. **Amended to read "partnership or other legal entity" as a possible co-owner.**

Art 3 Corrects word usage "**session**" to "**succession**" as a means of conveyance.

Art 10 Adds "**Real**" to the phrase "estate co-ownership provisions" in accordance with the Regulations of Baja Sur.

Art 11A Eliminates an outdated provision.

Existing "When the proprietor or trustee has executed a lease or management agreement with Operadora La Jolla de Los Cabos, S.A. de C.V. or another company designed by Desarrollos Turisticos Gran Vision S.A. de C.V."

Proposed "With the condition that the Agent of a co-owner shall be subject to the regulations, control and rules set by the condominium Bylaws and the Board of Directors."

Art 11B Changes "**proprietor or trustee**" to "**co-owner**"

Art 12 Changes the word “repair” to “be liable for” referring to damages

Art 17 Changes “manager” to “Administrator.” Adds the “Board of Directors”.

Art 19 Clarifies wording.

Existing “It is forbidden to hang clothing in windows, on the terraces and in common use areas.”

Proposed “It is forbidden to hang clothing, towels or personal effects in windows and terraces in view of neighbors or common use areas.”

Art 20 Adds “screens” as owners responsibility.

Art 23 Changes “Manager” to “Administrator.”

Art 31 Deleted Totally. Requirement for showers before pool use as not practical nor enforceable.

Art 37 Deleted Totally as the same as Art 19

Art 39 Deleted Totally as the same as Art 20

Art 40 Changed to conform with existing usage.

Existing “No antenna may be put up on dwelling place roofs, except for common use in the development”

Proposed “No antenna may be installed without permission of the Board of Directors.”

Art 41 Changed to conform with the law and to avoid confusion as to “via equipment or furniture”
Existing “A co-owner who damages other units via equipment or furniture inside his private area shall be directly responsible for and commits to pay the cost of the necessary repairs.”

Proposed “A co-owner who damages other units or common areas for whatever reason shall be directly responsible for and commits to pay the cost of the necessary repairs.”

Art 44 Changes “manager” to “Administrator” and Changed “Surveillance Committee” to “Board of Directors”

Art 45 Reworded to conform with Article 4 format.

Existing “Exclusive use Property, Private use common property and General use common property”

Proposed “Property for exclusive use, Common property for private use and Common property for general use”.

Art 45 Corrects square footage in the Bylaws on units **F-102, 202, 302 and F-111, 211 and 311**. The correct square footages have been used for dues and voting for years but never corrected in the Bylaws

Art 46 Change to conform to Baja Sur Laws regarding 25% reserve by **adding “unbudgeted common expenses”** as items required to be covered by the reserve. Changes **“charged to”** to **“by”** as the method of repayment and deletes **“Co-Owners shall make an initial deposit to the reserve fund.”** This referred to the original start up 30 + years ago.

Art 48 Refers to payment of dues. Eliminates **“without prior collection”** as meaning is unknown. Adds **“or to the bank designated by the Administrator”** to the management office as a place to make payments of dues.

Art 49 Changes **“Manager”** to **“Administrator”** and adds **“Board of Directors, Assembly and the Bylaws”** to be able to delegate powers to the Administrator.

Art 50 Tightens the rule on how reserve funds may be invested by adding in **“insured securities under the Prudent Man Rules”** and changes **“shall”** to **“may”**.

Art 52 Eliminates **“the co-owner’s assembly shall set the amount of the discount that applies to co-owners who pay their full year fees in advance.”**

Art 53 Adds **“including but not limited to foreclosing on said unit”** as an appropriate action for defaults. Eliminates **“months”** as superfluous and changes **“manager”** to **“Administrator”**. Title 3 changes **“Committee”** to **“Board of Directors”**

Art 54 Changes **“manager”** to **“Administrator”**, **“appoints”** to **“elects”** and **“Surveillance Committee”** to **“Board of Directors”**. Eliminates last sentence.

Art 58 To conform to what is actually occurring, the Assembly meeting dates changed from **“January”** to **“during the last quarter of the calendar year.”**

Art 59 Changes **“manager”** to **“Administrator”**

Art 62 Deleted as it relates to unsold units at inception of project.

Art 64 To conform to the new Title of the Baja Sur Law **“Real Estate Condominium property law for Mexico”** not **“joint property ownership regulations”**

Art 65 Changes **“Manager”** to **“a representative of the Administrator”** as the Secretary for meetings.

Art 66 Changes **“Surveillance Committee chairman”** to **“Board of Directors President”** as an authorized signor of the minutes.

Art 68 Changes **“may”** to **“shall”** to conform to Mexican Law

Art 70 Changes the assembly shall **“appoint”** to **“elect”** and the **“manager”** to **“Administrator.”**

Art 71 Changes **“Manager”** to **“Administrator”** and adds **“the Board of Directors”**

Title 3 Changes **“The Committee”** to **“Board of Directors”**

Chapter II Changes **“The Committee”** to **“The Board of Directors”**

Art 72 Changes The Assembly shall **“appoint”** to the Assembly shall **“elect”**; **“Surveillance Committee”** to **“Board of Directors”** and **“Manager”** to **“Administrator”** in all sections of Art 72. Changes **“joint estate ownership provisions”** to the new correct title **“Real Estate co-ownership provisions.”**

Art 73 Changes **“committee”** to **“Board of Directors”**

Art 74 Changes **“committee”** to **“Board of Directors.”**

Title 4 Changes **“The Management”** to **“The Administrator”**

Art 75 Changes **“appoints”** to **“elects”** and **“Surveillance Committee”** to **“Board of Directors”** and **“Manager”** to **“Administrator”** and eliminates **“who shall furnish a bond for the amount the appointing ordinary co-owners assembly sets”** as it is not available by our insurance carrier in Mexico.

Art 76 Changes **“Manager”** to **“Administrator.”**

Art 77 Changes **“Manager”** to **“Administrator”**

Art 77 K and L Changes **“Running”** a list to **“Maintaining”** a list

Art 77 R Adds **Board of Directors** to those assigning duties to the Administrator and replaces **him to it and his to its**

Art 77 S Adds to the list of duties of the Administrator **“maintaining a register of previous resolutions of the General Assembly”**

Art 78 Changes **“Manager”** to **“Administrator”**

Art 79 Changes **“Manager”** to **“Administrator”**

Art 80 Changes **“Surveillance Committee”** to **“Board of Directors”** and **“Manager”** to **“a representative of the Administrator”**

Art 82 Changes **“Surveillance Committee”** to **“Board of Directors”** and **“Manager”** to **“Administrator.”**

Art 85 and Art 86 changes **“Condominium manager”** to **“Board of Directors”**

A motion made by Bill Shurtleff E-208 to accept the above mentioned minor changes. Seconded by Ray Robertson F-109. Motion passed.

Material La Jolla Bylaws Changes

Art 14 Existing **“All new purchasing co-owners commit to be subject to the law applicable to the Real Estate Co-Ownership provisions of the state of Baja California Sur, the charter and these Bylaws.”**

Art 14 Revised “All new purchasing co-owners will submit to the Homeowners Office the name, address, phone number and e-mail address of the title holders and commit to be subject to the law applicable to the Real Estate So-Ownership provisions of the state of Baja California Sur, the charter and these Bylaws.” PASSED.

Art 17 Existing “The co-owner may change the interior of his unit with prior notification of and written approval from the manager, who shall see that the structure, various facilities, facades, road systems, and in general all the common use parts are not affected.”

Art 17 Revised “The co-owner may change the interior of his unit only with prior notification of and written approval from the Administrator and the Board of Directors. The co-owner shall refer to and abide by the Remodeling Rules & Regulations in effect at the time of the remodel”. PASSED.

Art 18 Existing “The co-owner shall allow the necessary repairs in the condominium common parts: Ceilings, floors, walls, dividing walls, mezzanines and the sundry installations traversing their private property, and shall allow the personnel in charge of executing them access.”

Art 18 Revised “The co-owner shall allow the necessary emergency and general repairs in the condominium common parts; Ceilings, floors, walls, dividing walls, mezzanines and the sundry installations traversing their private property, and shall allow the personnel in charge of executing them access, by requiring the owner to leave a key with the Homeowner’s Office or a responsible party in the San Jose de Cabo area.” PASSED.

Art 24 Existing “ with prior written authorization by the manager, each co-owner may have a cat, dog or other domestic animal inside his private area, provided such does not annoy or make excessive noise that disturbs the peace of the other co-owners. Only leashed dogs and cats led by their owner shall be allowed in common areas, and the co-owner is directly responsible for damages caused by the animal and for immediately cleaning the areas of any animal excrement or other soiling.”

Art 24 Revised “No pets are allowed on the grounds or private areas.” PASSED.

Art 28 Existing “Everyone shall freely share parking spaces. It is forbidden to use them to park boats, trailers, campers or any other similar vehicles in them, except for unloading of such vehicles.”

Art 28 Revised “Everyone shall freely share parking spaces. It is forbidden to use the parking spaces to park boats, trailers, campers and any similar or oversized vehicles in them, except for unloading of such vehicles. All vehicles must be registered with the Security guard and a permit must be visible inside or on the front windshield of every vehicle.” PASSED.

Art 30 Existing “The pool timetable shall be from 7:00 to 23:00 hours, or as the manager determines for the convenience of the majority of the co-owners.

Art 30 Revised “The pool timetable shall be from 7:00 to 22:00 hours.” WITHDRAWN.

Art 33 Existing “14 years old minors and under must be accompanied by an adult in the area of and to use the swimming pool, and the use of all facilities shall be at the risk of such adult.”

Art 33 Revised

A. Children under 14 years of age must be accompanied by an adult when using the pool. The adult shall be responsible for the child.

B. Inflatable or other floating devices larger than 1.8M x .6M (6 feet by 3 feet) are not allowed in the pool.

C. All persons using the pool do so at their own risk.

D. Pool furniture may not be removed from the pool areas without prior approval from the homeowner office.

E. Skating, skateboarding, scooters or disruptive behavior are not allowed in the pool areas at any time. PASSED.

Art 34 Existing "Children whose age prevents their control of their physiological functions may not use the pool or the jacuzzis."

Art 34 Revised "Children whose physiological functions cannot be controlled must use appropriate swim diapers." PASSED.

Art 35 Existing "Excessive noise from TV's, radios, record players, games etc. that disturbs the peace of the neighbors is not permitted at any time and specifically after 22:00 hours."

Revised "Excessive noise from TV's, radios, record players, electronic devices, games etc. that disturbs the peace of the neighbors is not permitted at any time and specifically after 23:00 hours."

Art 35 Amended to read "excessive noise that disturbs the peace of the neighborhood is not permitted at any time after 23:00 hours." PASSED.

Art 38 Adds refrigerators to items that must be hidden from view of neighbors and common areas. PASSED.

Art 63 Existing "If a co-owner defaults on payment of his duties contracted in title two, chapter I hereof, he shall not have the right to vote until the amounts owed have been paid to the management."

Art 63 Revised

(A) If a co-owner defaults on payment of his duties contracted in Title two, Chapter II hereof, including maintenance and assessments approved by the Assembly, he shall not have the right to vote until the amounts owed have been paid to the management.

(B) In addition such co-owner and anyone using his unit shall lose parking privileges, use of the pools and television services. He may not run for any office until the amounts due have been paid.

Revised: Move the last sentence in 63 (B) to end of 63 (A). Ammended to read:

(A) If a co-owner defaults on payment of his duties contracted in title two, chapter I hereof including maintenance and assessments approved by the Assembly, he shall not have the right to vote until the amounts owed have been paid to the management. He may not run for any office until the amounts due have been paid.

(B) In addition such co-owner and anyone using his unit shall lose parking privileges, use of the pools and television services. PASSED.

Art 72 Becomes Art 72 A. PASSED.

Art 72 B New “the Board of Directors shall hire an Administrator.” PASSED.

Before voting Article 72 C, which became Article 93, Mark Kellerman spoke to the attendants about a fine imposed to him due to the incident on his rented unit.

Maggie Hedges D201 makes a motion to that the Board be instructed to reimburse Mark Kellerman the fine imposed on the incident. Motion seconded by Jim Anderson. Motion passed.

Art 72 C New “The Board of Directors has the authority to levy fines up to one hundred U.S. dollars (\$100.00 USD) per day per infraction to the Rules, Bylaws or Policies of this association. The non payment of these fines will cause the loss of parking, TV and pool privileges and be subject to the same penalties and interest as set forth in Article 52.” This Article 72 C becomes Article 93. FAILED.

Art 72 D New “The Board of Directors will have the following functions and obligations:

I. Make sure that the Administrator fulfills all the agreements of the general assembly;

II. Supervise that the Administrator achieves the fulfillment of his/her functions;

III. Hire and give end to professional services.

IV. Verify and give its judgment about the financial statements that the Administrator should present to the General Assembly;

V. Verify and supervise the funds investments;

VI. Give a report to the Assembly about the condominium administration;

VII. Help the Administrator in telling the owners about the fulfillment of their obligations. PASSED.

Art 74 Existing “The members of the committee shall remain in the office for one year from the date of designation and many be re-elected or removed because of serious failure in performing their office.”

Art 74 Revised “The members of the Board of Directors shall remain in the office for two years from the date of election and many be re-elected. A member may be removed by the Assembly because of serious failure in performing their office. Art. 74 has a spelling error; “many” should be “may”. PASSED.

Art 83 Changes the dissolution of the condominiums from a 90% majority to a majority of the entire condominium. **Amended to 66% of the present and proxy votes. PASSED.**

Art 85 Changes “condominium manager” to “Board of Directors and changes “by majority of at least three-quarters of the present and absent vote” to “by majority of the present and proxy votes Amended to 66% of the present and proxy votes. PASSED.

Art 86 Changes “condominium manager” to “Board of Directors and changes “by majority by at least the majority of three-quarters of the total votes.” To “by majority of the present and proxy votes” Amended to 66% of the present and proxy votes. PASSED.

Art 91 Existing “For modification of these Bylaws, the notice of meeting shall indicate the agenda and the modification expected to be made, and for the assembly resolutions to be legal, its decisions must be passed by a double majority of the co-owners representing at least three-quarters of the real estate value”.

Art 91 Revised “For modification of these Bylaws, the notice of meeting for the Assembly shall indicate the agenda and the proposed modifications. Those modifications must be approved by a majority of the indivisible part of the condominium according to the indivisible parts table described in Article 45 hereof.” Amended to 66% of the present and proxy votes. PASSED.

IV. OLD BUSINESS/ COMMITTEE REPORTS

- **Review agreement with Luis Cano, regarding to the office use of his units.**

Motion to extend agreement for the offices is made by David Bowman, C 206 and seconded by Gene Stockwell F-301. Motion passed.

- **Beach Concession Report**

Bill Shurtleff informed about the status of the beach concession.

- **TV report**

Ileana informed about the TV report and introduced the TV committee

V. FINANCIAL & INSURANCE REPORTS

- **Finance report by the Treasurer and approval by the Assembly of the 2010 budget & assessments.**

Ken Kimble informed the dues are going down. The reserve fund covers the major maintenance works.

Ken Kimble D-307 explained to the homeowners the budget line items.

Henry Novell G-206 informed about the delinquents statistics.

Judy Lee-McConell C304 moved to approve the 2010 budget and assessments. Seconded by Jack Horner D-101. Motion passed.

- Insurance report

Ray Robertson presented a report on the insurance.

Mark Kellerman makes a motion to cancel the current insurance policy, to become self insured with no reserve funds. Jim Anderson seconded the motion. Jim Anderson withdraws from seconding the motion. Mark Kellerman withdraws the motion.

Mark Kellerman makes a motion to instruct the board to not to renew current insurance policy, except for the 1 million liability policy, have a reserve fund of 50% the insurance policy of next year for self insurance. Ken Kimble seconds it. Motion failed.

VI. NEW BUSINESS

- **Approval of next year's Manager**

Civil Association No. 2, as Manager, moved by Bill Shurtleff, seconded by Ken Kimble. Motion carried.

- **Report of the Nominating Committee**

Ardene Janssen informed the current Board of Directors has accepted to serve to one more year. Board members accepted to serve one more year; appointed by acclamation.

Howard Konechne made a motion to allow renters, especially long term ones, to use the laundry. Ken Kimble seconded it. Motion failed.

VII. CLOSING

- **Selection of the date for the next annual Assembly meeting.**

November 6th, 2010 is proposed as the date for next annual Assembly, as well as for the Civil Association 1 and Civil Association 2. Motion seconded and passed.

- **Adjournment**

Meeting is adjourned at 2:15 pm.

VIII. ANNUAL MEETING CIVIL ASSOCIATION I

- Election of the Board – Jerry Kurrle and Henry Novell are appointed by acclamation.
- Meeting is adjourned at 2:16 pm.

IX. ANNUAL MEETING CIVIL ASSOCIATION II

- Election of the Board – Jerry Kurrle and Henry Novell are appointed by acclamation.

- Meeting is adjourned at 2:17 pm.

CHAIRMAN

Bill Shurtleff

TELLERS

Ken Kimble

Bill Deatsch