

**JAMES/KILMER CONDOMINIUM ASSOCIATION  
BOARD OF DIRECTORS MEETING  
October 27, 2009**

A meeting of the Board of Directors of James/Kilmer Condominium Association (the "Association"), an Illinois not-for-profit corporation, was called to be held on Tuesday, October 27, 2009, in the James House Hospitality Room, 1560 North Sandburg Terrace, Chicago, Illinois, pursuant to By-Laws.

**CALL TO ORDER**

David Beck, President of the Association, called the meeting to order at 7:05 p.m., and declared that a quorum was present in that the following directors were present:

Judy Barnes  
David Beck  
Lynn Conner  
Duane Hickling  
Betty Latson  
Tom Meyers  
Karla Ross  
Dorsey Ruley  
Angus Shorey

Also present were Richard Vicens, Property Manager, and Allan Werth, Site Supervisor, of Draper & Kramer, Inc. Barbara A. Roberts acted as Recording Secretary.

Mr. Beck made note of three Board members who have served for a number of years – Karla Ross for 9 years, Angus Shorey for 19 years and Lynn Conner for 9 years – and stated that they will not be running for reelection to the Board. He thanked them for their many years of service, and the audience joined the Board in applause. Mr. Beck also commented on the pleasant appearance of the newly decorated Hospitality Room.

Mr. Beck then provided some information about the Special Meeting of the Board of Directors that will take place on Tuesday, November 3, the agenda for which will be posted on Friday, October 30. He stated that one hour will be allotted to unit owner comments and questions, after which the Board will discuss and vote on three resolutions concerning (a) the window replacement and the direct charge for it to unit owners, (b) calling a unit owner meeting to be held on November 17 to vote on the window replacement project, and (c) the direct charge to unit owners for the balcony repairs. Mr. Beck also stated that the Illinois Condominium Property Act specifies that in instances such as this, the Board votes first, and then the unit owner vote follows. He added that it will not be necessary for unit owners to petition to have a meeting, but that instead he is calling the unit owner vote to simplify matters.

**REGULAR OPEN FORUM**

A unit owner stated that unit owners in another building were informed that they are required to circulate a petition for a meeting of unit owners. Mr. Beck responded that the Board can waive that requirement and that no petition is necessary if the vote is called. He added that only James House unit

owners will vote because only they will be receiving direct charges, and that on November 4, if the Board votes to proceed with the window replacement project, letters will be sent to all James House unit owners with a proxy form, or they may attend the November 17 meeting in person.

A unit owner asked about the account allocation report from Picker and Associates. Ms. Latson stated that she has received the report, but that some additional work is required before the report can be considered to be complete; she added that the report or the lack thereof has no effect on the current situation, and that the report will be distributed to all unit owners when it is completed.

A unit owner asked about the status of the report on the question-and-answer portion of the recent Town Hall Meeting. Ms. Barnes responded that it is being updated with additional questions received since the meeting and is expected to be available on the Web site early next week.

A unit owner commented that the fountain in front of James House is unattractive and that the water spray pattern should be altered. Mr. Beck responded that this has been suggested to HOA but that alterations to the fountain would be expensive; he added that suggestions that it be converted to a planter have been set aside because that could cause a traffic hazard owing to interference with sightlines.

A unit owner commented that the openings in the proposed new windows appear to be too small to accommodate a person being rescued by firefighters. Mr. Beck responded that in such cases the firefighters usually break the windows.

A unit owner asked that the washer and dryer cards be reprogrammed to limit the number of washers that a person may use at one time. Mr. Vicens agreed to ask the card vendor if this can be done.

A unit owner asked what is being done about the seepage into the garage. Mr. Beck responded that HOA engaged Wiss Janney Elstner to perform a study of all of the malls, one of the findings of which was that the Kilmer House patio walls are leaking and need to be tuckpointed and recapped, at an estimated cost of \$80,000.00 to \$100,000.00, adding that the walls are limited common elements and there has as yet been no vote on proceeding with the project. Mr. Shorey requested a copy of the WJE report and of the legal opinion stating that the patio walls are limited common elements, and was told that they would be made available.

A couple of unit owners raised questions about the project contracts for the window replacement and concrete repairs and the loan contracts for payment of the projects. Ms. Latson explained that the contracts would be made in the name of the J/K Association, as they always are, but that the loan documentation would stipulate that repayment of the loan would be the responsibility only of James House unit owners in the case of the individual unit window replacements and balcony repairs, and only of Kilmer House unit owners in the case of their balcony repairs, via direct charge to unit owners in both instances. A lengthy discussion ensued about how this would work and about what would happen if a unit owner borrowed money from the Association to finance the direct charge and then defaulted on the loan. Ms. Latson stated that the Finance Committee is in the process of creating ways to build a reserve to deal with defaults and briefly described some of them, but she also stated that defaults on loans from the Association could be handled the way that defaulted assessments are handled: with a lien placed on the unit. She also explained that there would be no differential direct charges based on differences in wear and tear on windows.

A unit owner declared that the situation will not change in the future except that the replacement windows will be more expensive, and that the Association should go forward with the project now.

Mr. Meyers asked Mr. Beck for a written statement from the Association's attorneys that the petition signed by 20% of the unit owners is not needed for the November 17 meeting of unit owners; Mr. Beck stated that one would be provided.

Further discussion ensued about the window replacement project, about the unit owner vote and about the direct charge to James House unit owners only for the replacement windows. In response to a question, Mr. Beck stated that replacement of the lobby, penthouse and Management Office windows would be charged to the Reserve Fund because those are all common elements.

### APPROVAL OF MINUTES

Ms. Barnes asked if there were any additions or corrections to the minutes of the regular Board meeting held on September 22, 2009. There were four corrections. **Judy Barnes moved that the draft of the minutes of the regular Board of Directors meeting held on September 22, 2009, be approved as amended. Tom Meyers seconded the motion, and it passed unanimously.**

### TREASURER'S REPORT

Ms. Latson delivered the Treasurer's Report as follows:

For the nine months ended September 30, 2009, the Association reported \$3.6 million in total revenue. Revenues were lower than budget by \$61,000.00, of which \$55,000.00 stemmed from lower garage revenue.

Operating expenses were reported to be \$2,828,782.00, which was \$18,000.00 over budget year to date. In actuality, operating expenses should have been reported at \$47,000.00 over budget, because \$29,000.00 in plumbing expenses was classified as capital costs that should have been classified as operating expenses. Operating expenses continue to remain over budget largely due to uninsured losses and plumbing and sewer repairs.

Unadjusted revenues over expenses before capital reserve contributions totaled \$813,000.00, and were under budget by \$78,000.00.

After the provision for capital reserves of \$883,000.00, the Association generated an operating deficit of expenses over revenues of \$70,000.00. When adjusted for the reclassification of plumbing expenses, the operating deficit should be reported at \$99,000.00.

At September 30, 2009, the operating reserve stood at \$65,000.00 before adjusting for the reclassification and \$36,000.00 after the reclassification. The capital reserve fund stood at \$5,230,000.00. The Finance Committee has held a series of meetings over the last 60 days to review the 2010 operating and capital budgets. The budgets have been completed and submitted to the Board for approval to distribute to unit owners.

Additional Finance Committee meetings will be scheduled shortly to continue work on various topics, including bank financing for the James unit owner windows and concrete projects and the budget allocation project between James and Kilmer.

## **COMMITTEE REPORTS**

### **Finance Committee**

Ms. Latson reported on the proposed budget for 2010, stating that it includes an overall increase in assessments of 7.14%. She explained that the assessment increase is due to lower garage revenues, payroll increases, continuing repairs, and higher insurance premiums owing to a new appraisal of Association property. Ms. Latson also stated that the Reserve Study scheduled to be conducted in 2010 will assist in determining more accurately how much should be contributed to the Reserve Fund and therefore how much, if any, the assessment allocated to the Reserve Fund should be increased in the 2011 budget. Mr. Beck added that J/K is faring better than other Sandburg Village Associations.

### **Infrastructure Subcommittee**

Mr. Hickling reported that the Committee met on October 22 and discussed a number of items:

- Owner feedback about the window samples has been thoroughly reviewed and results will be posted on the Web site.
- The Committee is working with Klein and Hoffman to come to a final decision about window hardware and other design features so as to able to proceed to final specifications and negotiations with manufacturers.
- The City of Chicago has no code requirements for the size of window openings when the bottom of the window is 24 inches or more above the floor, so owners will be able to request an adjustment of their window openings at installation.
- Owners of studios and two-bedroom units will be asked if they would like an additional operable window; if so, however, all studios and two-bedroom units either must or must not have them so the building façade will be symmetrical.
- There will be no retrofitted electrical installations on the balconies. Instead, a knock-out panel will be installed on each balcony in case the owner wants to install an electrical box.
- The concrete thresholds for the balcony doors will be ground down, but the new doors will still have a higher threshold to resist wind and water penetration; decking can be added to balconies to bring them to a level with the door opening.

Mr. Hickling then reported that the Committee voted to bring the window replacement project to the Board.

### **HOA Report**

Marcie Johnson reported on the following:

- HOA received a letter from 42<sup>nd</sup> Ward Alderman Brendan Reilly about reports of increased panhandling and drug dealing in the Clark and Division area, in which he states that he has requested increased police patrols in the area and also urges increased resident involvement, such as attendance at CAPS meetings; Ms. Johnson added that the Beat 1821 CAPS meetings are held at 6:30 p.m. on the first Tuesday of each month at the Near North Branch of the Chicago Public Library at 310 West Division Street.
- HOA received a second letter from Alderman Reilly about signs to be installed to augment the lane markings indicating that the right-hand southbound lane on Clark Street north of North Avenue is a right-turn-only lane, to reduce traffic congestion caused by a reduction in the number of through lanes on Clark Street.
- There will be no increase in the HOA assessments for the coming year.
- The Village-wide fence painting project is now under way in the 1400 block and will stop there for the winter and continue in the spring.
- Burlap fencing is being installed as needed to protect landscaping from road salt.
- The next HOA meeting will be held on Wednesday, October 28.

Mr. Ruley asked when the J/K garage will be painted. Mr. Beck responded that the HOA Board has not yet voted on the North Mall repairs and that there is no point in painting the garage until the leaks are dealt with. He reiterated that other areas in Sandburg Village also have problems that HOA must address; Ms. Johnson added that the South Mall is the area needing the most attention at this time.

## **MANAGEMENT REPORT**

Mr. Vicens reported on the following:

- The door staff manual is finished and has been distributed to all door staff employees, each of whom is required to sign a statement that he or she has read and understands the manual.
- The handicap access doors from the G1 garage level to James house have been installed, and signs have been posted explaining to users how to activate the doors.
- The length of time that the handicap access doors remain open is being investigated with regard to effects on the stack effect in the winter and the closing of elevator doors.
- A new plat of survey of the property has been completed, as required by the City of Chicago for the ComEd vault repair project; the survey has been turned over to Meade Electric, whose engineering subcontractor, Primera, has been working to complete the permitting process so the project can move forward.
- The concrete work contract review by J/K's attorneys and Golf Construction's attorneys is nearing completion, so the contract is expected to be signed this week or early next week, after which work on the south side of the building will begin and continue at least through November, to be continued next spring and completed before the pool opens.
- A plan will be developed for incremental improvements in the penthouse, such as lighting, to continue the remodeling project.

A unit owner asked if there is any provision for electrical failure that would affect the handicap-access doors. Mr. Vicens responded that he will investigate the situation.

Mr. Ruley asked if the timing of the handicap-access doors could be staggered so they are not both open at the same time. Mr. Vicens stated that he will investigate this possibility and find out what the Americans for Disabilities Act requirements are with respect to how the doors open and close.

Mr. Meyers asked if the buildings would be under-insured owing to the discrepancy in the area calculation. Mr. Vicens responded that the three percent difference was characterized as insignificant by the two insurance brokers from whom he sought advice, so that the proposed insurance coverage has not been changed; he added that the correct area calculation will be used in obtaining building insurance next year. Discussion ensued about replacement cost and earthquake coverage.

Betsy Ruley, Chairman of the Pet Committee, stated that she has noticed several large dogs in the building who appear to weigh more than 40 pounds, and asked if they have been registered with the Management Office. Mr. Vicens responded that some were "grandfathered" in after the weight-limit rule was passed, but that he can only take action about an over-limit dog if he is informed about the dog and who owns it. Ms. Ruley suggested that the 40-pound weight limit be publicized. Discussion ensued about pet fees and other fees.

## **ACTION OR DISCUSSION ITEMS**

### **Approval of Memo of Understanding by Draper and Kramer**

Ms. Barnes explained that the Memo of Understanding addresses some of the services that the Board felt were areas in which the Association was under-served in the past, and so could be used to monitor and evaluate Draper and Kramer's and the Association's performance going forward, to improve communication and accountability on both sides. **Upon motion duly made by Judy Barnes and seconded by Angus Shorey, the following resolution was made:**

**BE IT RESOLVED, that the Board of Directors approve the Memo of Understanding for the Years 2010-2012 with Carl Sandburg Village Condominium Association No. 7 by Draper and Kramer, Incorporated, dated October 21, 2009. After discussion, the motion passed, with Tom Meyers and Dorsey Ruley opposed.**

During the discussion that preceded the vote, Mr. Meyers questioned the document's inclusion as part of the contract. Ms. Barnes and Mr. Beck responded that it is not part of the contract but is a means of evaluating Draper and Kramer and of helping the Board to perform better. Mr. Ruley objected to the use of specific people's names in the document; Mr. Vicens agreed to substitute position titles for personal names or to include both position titles and names.

### **Approval of Distribution of Proposed 2010 budget**

**Upon motion duly made by Betty Latson and seconded by Karla Ross, the following resolution was made:**

**BE IT RESOLVED, that the Board approve the distribution of the proposed Fiscal Year 2010 budget to all James/Kilmer unit owners for their 30-day review. After discussion, the motion passed, with Tom Meyers opposed.**

During the discussion that preceded the vote, Mr. Meyers stated his opinion that the proposed budget is too tight, and gave as examples the amounts proposed for garage revenues, heating gas and legal fees. Mr. Beck and Ms. Latson responded that the garage fees will be raised, the locked-in gas price is lower than it was last year, and the legal fees are net of insurance reimbursement. Further brief discussion ensued.

### **Approval of the Tenth Amendment to the Declaration of Condominium Ownership**

Mr. Hickling briefly explained the reason for the amendment. **Upon motion duly made by Duane Hickling and seconded by Lynn Conner, the following resolution was made:**

**BE IT RESOLVED, that the Board approve the Tenth Amendment to the Declaration of Condominium Ownership for Carl Sandburg Condominium Association No. 7. The motion passed unanimously.**

### **Approval to Engage Picker and Associates to Provide Audit and Tax Services for 2009 and 2010**

**Upon motion duly made by Judy Barnes and seconded by Tom Meyers, the following resolution was made:**

**BE IT RESOLVED, that the Board of Directors approve the proposal submitted by Picker and Associates on September 25, 2009, to provide audit and tax services for fiscal years 2009 and 2010, for a total cost of \$19,200.00. The motion passed unanimously.**

**Ratification of Approval of the Renewal of Building Insurance Policies**

Upon motion duly made by Karla Ross and seconded by Tom Meyers, the following resolution was made:

**BE IT RESOLVED, that the Board ratify its approval of the proposal submitted by Mesirow Financial on September 25, 2009, for renewal of the Association's insurance policies for the period September 30, 2009, through September 30, 2010, in the amount of \$181,353.00. After discussion, the motion passed unanimously.**

During the brief discussion that preceded the vote, Mr. Ruley asked that additional competitive bids be sought next year. Ms. Barnes remarked that the insurance bidding/buyer review process for the Association is identified in the Memo of Understanding with the Draper and Kramer contract for implementation in 2010. Mr. Vicens announced his intention to migrate the expiration date of the policies to December 31, 2010, to avoid the rush to finalize insurance policy proposals that tends to occur in late September and early October.

**Ratification of Approval to Engage Klein and Hoffman, Inc. to Perform the Kilmer House Façade Inspection**

Upon motion duly made by Duane Hickling and seconded by Tom Meyers, the following resolution was made:

**BE IT RESOLVED, that the Board ratify its approval of the proposal submitted by Klein and Hoffman, Inc. on September 28, 2009, to provide a façade inspection and prepare a report on the condition of Kilmer House, in the amount of \$5,600.00. The motion passed unanimously.**

Before the vote, Mr. Hickling explained that the approval covers only the inspection and report preparation to apprise the Board of what may need to be repaired in the future, and does not include creating construction documents or managing a repair project, which would be covered in another contract. In response to a question from Mr. Shorey, Mr. Beck explained that the inspection covers the façade, windows and balconies, including railings.

**Approval of Remodeling Request**

Upon motion duly made by Duane Hickling and seconded by Tom Meyers, the following resolution was made:

**BE IT RESOLVED, that the Board of Directors approve the remodeling of Units #2408 and #206K according to the requests submitted by the unit owners that have been reviewed and found to be in compliance with the Association's rules, regulations and conditions, and that will be subject to ongoing inspection by the Association's Chief Engineer. The motion passed unanimously.**

**Businesses Conducted from Units**

Mr. Meyers stated that contrary to what was mentioned in a Finance Committee meeting, the Association cannot charge fees to unit owners conducting businesses out of their units because the Declaration prohibits conducting business out of a unit. He suggested that Management investigate the situation and make recommendations to the Board, because there have been complaints about people waiting in halls to get into units, about deliveries of large numbers of packages, etc. A unit owner suggested looking into whether a business license is required to operate a business out of one's home. Mr. Vicens stated that he has discussed the matter with the Association's attorney and that, among

other factors that affect the situation, anyone conducting business in the City of Chicago is required to have a business license. In response to a question from a unit owner, several Board members stated that the Association is not seeking to limit the activities of a unit owner who is simply working from home. Ms. Ross remarked that the distinction between working from home and operating a business from home is that the latter is generally a commercial establishment, often with employees, and that there are also insurance and security ramifications. She also stated that the Association's Declaration describes what is meant by a home office that is not a commercial office. Mr. Beck asked Mr. Vicens to investigate the matter and make recommendations to the Board.

**ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 8:52 p.m.

Respectfully submitted,

  
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Judy Barnes, Secretary