

MEETING
By-Laws & Resolutions Advisory Committee
Special Meeting
October 23, 2019
Administration Building Small Conference Room

Present: Committee members Jim Trummel, Bob Hillegass and Keith Kaiser. Also present were Committee Liaison Director Camilla Rogers, Association member Jeff Knepper, Director Frank Daly, Association Marketing and Public Relations Director Josh Davis and Greg Ellison of the Bayside Gazette. Having a quorum, the chair Jim Trummel called the meeting to order at 1:00 PM.

The agenda of the meeting was unanimously approved.

There were no Public Comments

The purpose of the meeting was to review the First Readings of amendments to Resolutions M-01, M-10 (proposed new resolution), C-02 and M-04. The First Readings were submitted to the Board of Directors at the October 5, 2019 regular meeting of the Board.

The Committee discussed each of the First Readings with the participation of all present except Josh Davis, who video taped the meeting, and Greg Ellison. The comments of the Committee were to be put into report form and sent to the Board of Directors as well as interested parties, General Manager John Viola and ARC chair Lisa Swartz.

The above referenced report was prepared and sent to the Board and others by email dated October 29, 2019. That report is attached and is part of these minutes.

Adjournment of the meeting was unanimously approved at 3:05 PM.

Jim Trummel
Minutes Recorder

First Readings Review

October 29, 2019

The By-Laws and Resolutions Advisory Committee met in special session Wednesday, October 23, 2019 to review the First Readings of amendments to Resolutions M-01, M-10, C-02 and M-04 at the October 5, 2019 Board meeting. In addition to Committee members, Committee liaison and Association member Jeff Knepper, in attendance were Director Frank Daly, Marketing and Public Relations Director Josh Davis and Greg Ellison of the Bayside Gazette. The meeting was recorded and can be seen in its entirety on Ocean Pines Association YouTube. Committee comments are as follows.

M-01: The proposed action for this Resolution is to rescind it and replace with the draft of M-10. The Committee understands that the purpose is to expedite the violation compliance process through a comprehensive revision of the process and did not further consider M-01.

M-10: The following comments pertain to the proposed M-10 resolution.

1. The Committee would prefer to continue the M-01 designation for the compliance process.
2. The Committee recommends that M-10 be reviewed by the Association Counsel (see paragraph 4.d of Resolution B-01).
3. It is recommended that paragraph 5.A be revised to be a definition of "Responsible Party". The current definitions in 5.A, 5.B, 5.E and 5.F use responsible parties in slightly different ways. It is recommended all responsible party definitions be subparagraphed under the Responsible Party definition in 5.A, as follows:

(5).A: Responsible Party: A Responsible Party is an Ocean Pines Association member or other entity or person in control of real property within the Association, to include:

(1) An Ocean Pines Association member is as established in the governing documents of the Association and

(2) Financial or Non-financial Entity, or person, in control of real property within the Association.

The term "responsible party" would then be used in place of other terms in the M-10 draft.

4. Similar to comment 3, it is recommended that a new definition be inserted after 5.A to define the "Complainant". This definition would include language currently residing in 5.G to describe one who could bring a potential violation to the attention of CPI. The term "Complainant" would then be used throughout the document as needed when referring to such. The goal is to standardize the use of this language throughout the document.

5. It is recommended that the definition (5.C) of Violation be revised to read: A violation is a Complaint that has been confirmed by CPI to be a non-compliance with the Declaration of Restrictions or ARC Guidelines.

6. In paragraph 5.G it is recommended that it read: Complaint: Is the notification to CPI that a violation to the Declarations of Restrictions or ARC Guidelines **may exist**. (See also the recommendations in comment 4 and 5)

Note: In paragraph 5 of the M-10 draft, the subparagraphs are capitalized. In all other paragraphs the subparagraphs are lower case. It is recommended that lower case be used.

7. In paragraph 6.b, the second sentence should read “**When** entering onto a **property** for such...”

8. All of the action steps or the compliance process are included in paragraph 6.c. This includes actions from sending out violation notices with specified content, action by ARC and action by the GM. It is recommended that this paragraph be structured in a manner, perhaps by subparagraphs, that separates these actions. It is suggested that this paragraph make reference to Addendum A and Addendum B where each is used in the actions.

9. It is recommended that the respective authorities of ARC and the GM be clearly stated. For example, if this is the correct intent, that ARC has the sole authority to determine enforcement of a CPI reported violation and that such enforcement will be through legal action; that the GM has the authority to proceed with legal action enforcement of an ARC determined violation. The use of terms “if appropriate” and “alleged violation”, or similar, do not clearly express the extent of authority.

10. The paragraph numbering of the draft skips from 6 to 8.

a. Director Daly indicated that it is intended to add to paragraph 7 a provision that the ARC report of a violation sent to the GM for action will also go to the Board for the violation to be declared a continuing violation under the DR provision giving the Board authority to suspend certain member rights for the duration of a continuing violation.

b. The Committee recommends that there be a reporting of CPI and ARC actions. Director Daly indicated consideration would be given to reporting numbers of complaints, numbers of complaints/violations resolved and numbers of violations sent to GM for action.

11. Addendum A:

a. It is recommended that there be clarity for when Informal Notification ends and who initiates the Formal Notification. Compare the beginning of paragraph 6.c which can be read to mean ARC initiates the Addendum A Step 1 CPI ‘First Letter’, not CPI. The meeting discussion starting just after 1:39:00 of the video indicates that 6.c needs to be revised in order to indicate Informal Notification is ended by CPI with the Formal Notification in the Step I CPI ‘First Reading’ Letter.

b. There is no specific indication that there is a verification of continuing non-compliance after Step 2.

C-02: With regard to paragraph 4.e use of “possible violations” and “when appropriate” see the comments under M-10 regarding clearly stating authorities (M-10 comment #9).

M-04: Time limitations on the use of the meeting room did not allow as much discussion as might have been needed. However, the following comments are appropriate.

a. The chair of the Committee explained that M-04 was a combination of two predecessor resolutions 2-96-22 (grass or weeds) and 2-01-24 (refuse and debris). The chair further indicated that each of these resolutions clearly indicated that the OPA Right to Perform Certain Maintenance provision in DR’s was being used to enforce the applicable DR provision regarding grass/weeds and refuse/debris and each resolution expressly contained reference to a 2/3rds majority approval of the resolution. The chair stated that the failure to use this approach in M-04 was a mistake and should be rectified in the M-04 First Reading. Director Daly then indicated it was the collective approach of staff, OPPD and Association Counsel that entry on property

would not be done without judicial approval. In view of that as a policy, the Committee recommends M-04 be rescinded (repealed) and not amended as proposed in the First Reading.

b. The apparent no entry policy effectively sets aside use of the DR provision for OPA Right to Perform Certain Maintenance. Should this policy be expressed in M-10?

By-Laws and Resolutions Advisory Committee