

**PHA BOARD MEETING  
APRIL 13, 2007  
MINUTES**

**Members Present**

Jaime Morgan-Stubbe  
Salvador Ramos  
Edd Siler  
Rita Molinelli  
Walter Fournier  
Manuel Morales Jr  
Daniel Vasse  
Raúl Rivera  
Julio Bagué  
Luis Rodríguez  
Joseph Maqueda

**Members Excused**

Félix Santoni  
Luis R. Lomba

**Other Present**

Antonio Maldonado, PHA  
Daisy Diaz, PHA  
James Shanks, PDMPI

**I. CALL TO ORDER**

Mr. Manuel Morales, Vice-President, called meeting to order at 9:10 a.m. Mr. Morales explained that a last minute problem at work would prevent Mr. Luis Lomba from attending the meeting. Mr. Morales welcomed Mr. James Shanks who was invited to attend the PHA Board meeting.

**II. APPROVAL OF MINUTES**

The minutes of the March 14, 2007 meeting were unanimously approved upon a motion by Mr. Luis Rodriguez seconded by Mr. Julio Bagué. The first sentence on paragraph four (4), page 6, was deleted as it pertained to comments made off-the-record. Official minutes will not reflect the comment.

**III. PRESIDENTS REPORT- MR.LUIS LOMBA**

**Mr. Morales proceeded with the President's Report on behalf of Mr. Lomba as follows:**

**a. Traffic Study**

There has been very little action to bring this study to a close. A meeting was held on March 16, 2007 but the PHA consultant is still waiting for PDMPI inputs. The end of April 2007 was established at the PHA Executive Committee to bring this matter to a close. Mr. Jaime Morgan has indicated he will work with his consultants to get in touch with PHA consultant as soon as possible and provide him with the pertinent information.

**b. PHA Building**

Mr. Morales called upon Mr. Raúl Rivera to address the Board on the subject. Mr. Rivera informed that the construction of the PHA building is progressing as programmed on time and within budget. Doors and windows, clay roof tiles, air condition ducting and internal walls are in the process of being installed. The selection of furniture, data, phone and internal cabling system providers is in progress. This selection should be completed by end of April. Mr. Rivera invited the Board to visit the building at any time.

**c. 923 Entrance**

The project is complete, except for landscaping touches which are being currently applied. All access control systems and security cameras are fully operational.

**d. Artificial Reef**

Mr. Morales called on Mr. Luis Rodríguez to report to the Board on the subject. Mr. Rodriguez informed that a meeting was held with Mr. Ernesto Díaz, DNR Administrator, to discuss the permit process and lay out a series of meetings with DNR technical personnel to evaluate the project and work on Palmas Categorical Exclusion request. As requested by DNR, information regarding a previous categorical exclusion granted to PDMPI for the construction of T-Heads in the Candeleró Point area was forwarded to DNR. The Artificial Committee now waits for a call to meet with DNR technical staff. Mr. Díaz appeared very enthusiastic and supportive of the project.

Mr. Morales informed that at the PHA Executive Committee it was suggested that a presentation on the Artificial Reef Project be made jointly to the DNR Secretary and to the EQB President. The objective here is to get the EQB President enthusiastic about the project before the EQB technical staff receives the request for a Categorical Exclusion. Messers. Raúl Rivera, Tony Maldonado and Luis Rodríguez will look into this possibility. Also, the Executive Committee has recommended that Mr. José Martínez Laboy, expert in the area of joint permits and major federal and state government infrastructure projects be added to the Artificial Reef Committee as a consultant. Mr. Maldonado will contact Mr. Martínez Laboy to that effect.

**e. Marbella Lawsuit**

A site visit took place this past Monday, April 10, 2007 where Marbella, PDMPI and PHA lawyers visited the park to corroborate the park's layout. They also visited other beach accesses and the beach visitors parking required by the municipal ordinance. The case is proceeding along. No specific offers have been received for negotiation purposes.

Mr. Jaime Morgan indicated he has been told a proposal letter has been written by Mr. Enrique Cortés from Marbella Homeowners Transition Committee to Mr. Lomba. Mr.

Maldonado replied that he is not aware of any letters received at the PHA office for Mr. Lomba.

**f. Fox Case**

The Federal Rule Magistrate ruled that the case be seen at the Federal Court. PHA has no problem with that decision, as it would like to see the lawsuit move forward promptly. A motion by PDMPI lawyers and PHA lawyers has been filed, objecting the judge's decision and asking for reconsideration.. It was noted that PHA attorneys are ready to start the discovery phase pertaining to the lawsuit.

**g. Palmanova Park**

As previously suggested by Mr. Morgan, Mr. Joaquin Soler is now willing to transfer the parcel to PHA free of cost. PHA is waiting for Mr. Soler's lawyers to draft the documents. He will return the \$5,000 deposit. The monies can be used to make the required drainage improvements to the parcel. Therefore, the money set aside in the budget could be used for the design & parcel development. The idea is to turn this parcel into a recreational park for small children open to the entire Palmas community.

**h. Beach Access**

Mr. Morales then called upon Ms. Rita Molinelli to reported on the beach accesses negotiations. Ms. Molinelli advised the Board that the new beach access between Crescent Beach and the Candelero Point was opened during Holy Week. Some problems were observed, such as people attempting to park as close as possible to the beach front, often blocking the turn about circle. This is due to the fact that the access is not finished and lacks signage and parking lines. However, these are considered minor problems taking into consideration the huge crowds present at Palmas during Holy Week. Ms. Molinelli also indicated she has discussed these minor problems with the Candelero Point developer and feels there should be no problem in correcting these issues. Regarding the easement agreement to be signed between PHA and the Candelero Point developer, some minor items are still being worked out. The easement will be transferred to PHA.

Mr. Jaime Morgan indicated he had met with Ms. Molinelli regarding the second easement promised by PDMPI between The Beach Club and the Solarea site. Mr. Morgan confirmed that said second easement will be made available. However, this is a matter of timing as there are some items such as the archaeological investigations and the Candelero Point construction staging area that need to be clarified before a decision on the access is made. The building of infrastructure for the entire Candelero Point development project will also impact on the timing and location of the easement. Thus, more time is needed to evaluate these matters before making a final decision on the timing. Mr. Morgan added he will be meeting again with Ms. Molinelli and the developer to discuss this issue and to explore the possibility of installing a temporary dirt

access path through the area. The challenge to overcome may be an approximate 10 foot drop coming from Ocean Drive into the parcel.

**i. ARB Resolution**

A letter was received from James Shanks, addressing the PHA Board Resolution passed at the March 14, 2007 Board meeting regarding the implementation of the ARB Special Committee recommendations and beach access regulatory requirements. In his letter, Mr. Shanks indicated that the ARB will include in the design rules/guidelines information pertaining to compliance with beach access as required by regulation no. 17. He did not indicate anything pertaining to compliance with the recommendations contained in the ARB Special Report.

Mr. James Shanks had been invited to attend this Board meeting to address this matter and answer any other question the Board may have regarding the ARB or its finances.

**j. Beach Lifeguards**

As a result of the analysis done at the last Board meeting and the decision to proceed with adding the beach rescue mission to the Beach Patrol, PHA has taken appropriate action to have these services fully established by mid-May. It is anticipated that the costs for these services for the remaining of the year will be approximately \$20,000. The budget will need to be adjusted to identify the source of these funds. Otherwise, PHA may incur in a cost overrun in its security budget line item.

There are some areas in the budget that could be readjusted to reallocate the funds for this service. The Executive Committee recommends the Board gives the approval to this project, and that the necessary adjustments be made in the budget in order to implement this program.

The PHA Board concurred with the Executive Committee recommendation.

**k. ARB Request for Funds to Fund another ARB Inspector**

As a result of the Board's decision at the last PHA Board meeting, a letter was sent to the ARB advising that the decision to fund the additional inspector is being held in abeyance pending four conditions requiring action by the ARB. No response had been received from the ARB.

**IV. TREASURER'S REPORT – MR. SALVADOR RAMOS**

Mr. Salvador Ramos, PHA Treasurer, informed that there is no Treasurer's Report available for this Board meeting. A comprehensive report to include the PHA financial

situation, the Audited Financial Statements and the 2007 Budget will be presented at the Annual Meeting tomorrow April 14, 2007. The Board took note of and agreed with Mr. Ramos comments.

**V. EXECUTIVE DIRECTORS REPORT – MR. ANTONIO MALDONADO**

**A. Annual Meeting**

Preparation books for the Annual Meeting were distributed to the Board members. The book contains all reports to include the President, the Treasurer and PDMPI reports that will be submitted to the PHA members at the Annual Meeting. Registration is at 8:30 am and the business session will start promptly at 9:00 am. Following the Annual Meeting, the Board will reconvene to hold its organizational meeting to elect its Officers and the PHA Executive Committee.

**B. Emergency Medical Services**

An agreement was worked out with the Puerto Rico Medical Emergencies Department to have paramedics assigned to Palmas del Mar during Holy Week, summer and special holidays. These paramedics will be working at Palmas from 9:00 am to 6:00 pm during these periods and will be able to respond to any major emergency anywhere in the community. They will have with them the necessary medical equipment to handle emergencies and communication equipment to summon additional help if needed. Said medical emergency services can be requested through the PHA Security Dispatch who will have telephone/radio contact with the emergency team at all times. A draft document outlining responsibilities and the scope of this program has been prepared and is under review by the Medical Emergencies Department.

For this endeavor, PHA is in the process of acquiring a specially prepared, all-terrain 4 x 4 golf cart, to be used by the paramedics while working at Palmas. The cart is like a mini-ambulance capable of carrying three paramedics and a person on a stretcher in addition to a large medical emergency kit, oxygen equipment, etc. The cart, and the concept of operations, were tested during Holy Week and it worked extremely well. Seven (7) emergencies were handled and the services were well received by the community.

In addition to the cart, PHA has agreed to provide gas and maintenance service for the vehicle as well as lunch/meals for the paramedics while working in Palmas in exchange for the services. The cart will remain PHA's property, but will be kept at the Fire Station for security reasons. The cost of the specially equipped cart is approximately \$14,000. Contributions for the acquisition of the cart were requested from PDMPI and the Four Points Sheraton. None were received.

The PHA Board unanimously approved the purchase of the golf cart vehicle upon a motion by Ms. Rita Molinelli seconded by Mr. Raúl Rivera. These services are

authorized by the PHA Covenants. The cart cost, will be distributed over a six months period, bearing interest free payments.

### **C. Security Report**

In spite of an extremely busy Holy Week and Easter weekend where Palmas saw an inordinate number of visitors, guests and homeowners, there were no major incidents or acts of delinquency reported. PHA implemented a very effective contingency plan, maximizing its security resources and a very strong collaboration from the Puerto Rico police.

During the month of March six (6) burglaries were reported, four in residential areas, one at a construction site and one in a commercial area. Also, eight (8) illegal appropriations were reported; seven (7) in residential areas and one in a parking lot. Three individuals were detained by Palmas security and turned over to the Police, who placed them under arrest.

A security contingency plan for the summer was elaborated. It will go into effect on May 15, 2007.

## **VI. NEW BUSINESS**

Mr. Julio Bagué reported that a new wave of graffiti seems to be coming back to Palmas. Action needs to be taken immediately to arrest the problem. In order to discourage the perpetrators, quick action should be taken to repaint the affected areas.

Mr. Maldonado reported that a youngster responsible for many of these graffiti marks ("ASK") has been identified. A meeting was held with the youngster and his parents. Meetings are also being held again with the Academy to obtain their support in bringing this problem under control. PHA continues to work this problem aggressively.

## **VII. OLD BUSINESS**

### **A. PHA Beach Access**

Mr. James Shanks indicated that regarding the PHA Board resolution on Beach Access, the ARB has approved and will include a specific code in the ARB Design Guidelines to have coastal zone projects comply with requirements contained in Regulation no. 17. Mr. Shanks added that the ARB has been working on this for quite sometime requiring projects near the maritime zone to comply with these requirements.

Mr. Shanks explained that, since the publication of the 2003 Design Guidelines document, several new changes have been adopted by the ARB. A new Design Guidelines document incorporating these guidelines is being drafted and will soon be circulated for review and final approval by the ARB, PHA and PDMPI, as it was done in 2003.

## **B. Special ARB Committee Recommendations**

Regarding the recommendations contained in the Special Committee Report signed by PHA, PDMPI and the ARB and approved for implementation by the PHA Board in January 2005, Mr. Shanks indicated that the ARB will comply with the agreement. He pointed out that the ARB actively works on a daily basis implementing these recommendations. These include protection of the architectural theme, infrastructure considerations, Master Plan compliance and inspection and enforcement as appropriate, or as required. These matters will also be part of the ARB Construction Rules and Guidelines soon to be published. Regarding the architectural theme, the codes will continue to preserve the Spanish Mediterranean Style. Nevertheless, the new code should remain open to new ideas and architectural concepts.

Regarding the information and education program requirement, Mr. Shanks indicated that the ARB is not being proactive enough reaching out to the general community as much as it should. The ARB has relied more on the PHA members of the ARB, the Modifications Committee and the PHA Delegates to take the word out to the communities. Also, periodically it includes in the PHA newsletter articles about the ARB. If the President of the Delegates Committee allows it, Mr. Shanks will direct the ARB Executive Director to participate in every Delegates meeting.

Mr. Julio Bagué accepted Mr. Shanks offer to have the ARB Executive Director attend the Delegates meetings. However, Mr. Bagué pointed out that the ARB should not rely on this approach for delivering information to the general community. The ARB needs to be proactive and establish its own program coordinating presentations by the developers to the general community, particularly to those neighborhoods directly affected. In the past, the presentations made by developers to the Delegates have been the result of coordination made by PHA or the Delegates Committee and usually that information stays within the Delegates and does not go out to the general community or those specifically affected by a particular project. In only one instance the ARB sponsored a presentation by a developer to the adjacent communities affected by a project. This was the case of Mr. Zalduondo and his preliminary project for the old Palmas Inn parcel. The result of that meeting was good; however, that meeting was prompted by the leaders of the surrounding communities and did not come as an ARB initiative. Since that time, several new projects have been submitted to the ARB and not once has the ARB coordinated a presentation for the surrounding/affected communities or the general Palmas population.

Mr. Jaime Morgan suggested that PDMPI's and PHA websites can be a vehicle used to keep people informed about projects. Also, Mr. Wilfredo López should participate in every Delegates Committee meeting. Mr. Julio Bagué replied that this is a good idea; however, such information does not provide project neighboring communities with the information they are mostly concerned. These concerns usually center on how the project is going to affect them directly during construction, if such project is going to block their views, access routes for trucks and employees parking, use of common facilities, etc.

The developer can only provide this information and the ARB should promote meetings with the people to clarify any questions they may have. Therefore, some sort of a formal ARB program to convey information to the community on specific projects is still needed.

Both Mr. Shanks and Mr. Morgan concurred with Mr. Bagué that this is something that needs to be done regardless of the way it has been carried out in the past. The message needs to be taken to the communities being affected. It is more positive than negative to do it. It's a matter of establishing the procedure. Mr. Shanks will direct Wilfredo López to contact Tony Maldonado to start setting up meetings with regimes.

Regarding enforcement, Mr. Shanks said the ARB uses all available tools to force compliance with Design Guidelines and Construction Rules. Actions run from forfeit of security deposits to legal action before the court of law.

Mr. Maldonado pointed out that the enforcements problems seem to arise, not from inspections, which are also supported by PHA personnel and the Security Department, but from the administrative actions that must be followed to insure violations are brought to a close on a timely manner. Mr. Maldonado added that, administratively, the ARB appears not to have sufficient capacity to follow up on all outstanding actions. In this regards, Mr. Wilfredo López could probably use additional help.

In regards to the Master Plan and its infrastructure, Mr. Shanks indicated, the ARB watches closely over these requirements to insure there is adequate infrastructure capacity to support new projects. For example, plans are not approved unless PDMU reviews and approves for water and sewage availability. Also, the ARB depends on PREPA for electrical infrastructure requirements., For traffic requirements, the ARB looks closely to new developments to insure adequate access is maintained. Mr. Shanks reiterated that regarding infrastructure, the ARB is focused on those things it can control.

Ms. Rita Molinelli commented that she receives constant feedback from people who are saying they do not like Palmas del Mar anymore because there is just too much construction going on. According to Ms. Molinelli, there should be a way to slow down such a construction tempo so that people feels more comfortable with Palmas growth.

Mr. Walter Fournier mentioned that Sea Pines has a limit in terms of units that are constructed within a year. He suggests that perhaps Palmas needs to take this under consideration although it may not be something that the Covenants allow you to do.

Mr. Jaime Morgan indicated that PDMPI tries to pace and control the timing of projects on those properties they have sold or have some sort of control.. However, not all properties are controlled by PDMPI and even those where PDMPI exercises some form of control, there are some developers that move faster than others. He cited as an example Villa Franca II as a fast moving project coming on line as predicted. Others however, such as Harbor Lakes, lag behind considerably in terms of timing/execution and

when they start coming on line they fall in competition with other projects in terms of the market. Mr. Morgan feels that this is a temporary situation that should be cleared out in a couple of years.

### **C. ARB Finances**

Mr. James Shanks presented for the record an unaudited ARB Statement of Financial Position. This statement compares assets and liabilities for the year 2004, 2005 and 2006. Mr. Shanks also presented an ARB Statement of Activities (unaudited) of Revenues & Expenses for years 2004, 2005 & 2006.

Mr. Walter Fournier expressed his concern with the ARB expenses and the plans they have to get out of the financial hole it appeared have descended. The ARB had a \$257,000 deficit in 2006. Also, PDMPI keeps advancing money to the ARB (over \$225,000 accumulated as of 2006) and there is no clear sense how those advances will be repaid or who authorized such advances. Furthermore, the ARB kept spending an inordinate amount of monies in legal expenses to handle violations of the ARB Codes and Construction Rules, but it does not seem to be any interest in attempting to recover those costs as authorized by the PHA Covenants. The ARB needs to become self-sufficient and not PDMPI dependent. In this regard it needs to evaluate its fee structure to insure it can operate efficiently. Mr. Fournier added that through the Modifications Committee, he has asked the ARB to perform such review. He also asked to participate in the Committee that will be doing the fee structure review. Furthermore, Mr. Fournier said that a notification was received from the ARB Board that he will not be allowed to be part of that review committee and wanted to know the reason for such refusal.

Mr. Shanks gave an explanation of the fee structure and how it was put together. According to Mr. Shanks, it takes longer to review big projects than single homeowner projects. However, the majority of the expenses for violations are not related to major projects. These expenses are more related to individual homeowner projects, thus causing the big legal expenses. Nevertheless, the ARB is reconsidering the fee structure and evaluating what changes may be needed, if any.

Mr. Walter Fournier replied that the fees are already unbalanced against individual homeowners, there be new construction or modifications. There should be no increases in this area as they are already heavily burdened with fees vis-à-vis major developers.

Mr. Fournier also questioned if the ARB was going to continue piling up legal expenses and paying them by borrowing money from PDMPI. It is his understanding that according to the documents transferring the ARB to PDMPI, the responsibility for operating the ARB including covering all costs is PDMPI. At the end of the road the ARB will be a PHA entity. If there is a remote chance that the ARB may consider transferring that debt to PHA, then this matter needs to be clarified now. PHA should not be saddled with legal expenses to which it had no saying or responsibility and, particularly, when the mechanisms were available to recover those expenses and were ignored.

Mr. Jaime Morgan pointed out that from a PDMPI perspective he was not prepared to discuss the matter, as it had never considered what is going to happen with the outstanding balance. However, Mr. Morgan indicated he is willing to sit down and discuss it.

Mr. Maldonado suggested that a legal committee be constituted to address this matter, clarify the issues and make recommendations. This way the PHA Board as well as the ARB may have a sound basis from where to take further actions and implement any future policies or decisions.

The PHA Board accepted Mr. Maldonado's recommendations and appointed Ms. Rita Molinelli, Mr. Walter Fournier, Mr. Jaime Morgan, Mr. Francisco De Jesús and Mr. Antonio Cuevas as members of said committee.

Regarding Mr. Fournier's request to be a member of the Fee Structure Review Committee which was subsequently denied, Mr. Julio Bagué pointed out that the Modifications Committee submitted a motion to the ARB for reconsideration of this decision and is still waiting for an answer. Mr. Shanks replied that since Mr. Gabriel Espasas is a member of that Committee, he maintains the position that there is no need to change the composition of the Committee. Mr. Shanks added that Mr. Fournier can share with the Committee his views and provide his inputs, but the Committee has been formed with members of the ARB (Luis Rodríguez, Edd Siler and Gabriel Espasas) to review the fee structure.

Mr. Manuel Morales suggested that perhaps Mr. Fournier could be added as a non voting advisor to the Committee. Mr. Shanks accepted Mr. Morales recommendations. That is, Mr. Fournier will have a voice but no vote in the Committee proceedings.

Mr. Luis Rodríguez inquired into PHA's support for an additional ARB inspector. Mr. Manuel Morales replied that funding for the second ARB inspector is being held in abeyance pending the reply to the letter outlining four conditions that must be met before PHA can release any funds. These conditions pertain to financial disclosure, collection of legal fees, compliance with PHA resolutions and review of fee structure. Once that reply is received and the Board is satisfied, it will then address the releasing of any funds. Also, the ARB should be working on a job description/scope of work for the new inspector.

Regarding the recovery of legal fees, Mr. Maldonado suggests that a mechanism be found to tie ARB violations to the PHA Covenants and recover those fees in the form of assessments owed for violations of the Covenants. The Covenants do make provisions for handling these matters and the attorneys should take advantage of those provisions. Mr. Maldonado also suggested that all ARB guidelines, construction rules and contractual documents should make reference to those provisions so that when people sign the documents, they acknowledge and accept that they are subject to certain penalties authorized in the PHA Covenants.

Mr. Luis Rodriguez made a motion to draft a paragraph with language tying violations to the PHA Covenants spelling out who will pay in the event of a default or a violation to the Design Guidelines, Construction Rules or to the Covenants. This language once reviewed by the ARB legal counsel could then be incorporated in the ARB documents.

Mr. Walter Fournier seconded the motion which was unanimously approved by the PHA Board.

#### **D. Signage**

Mr. Daniel Vasse asked Mr. James Shanks to comment on the aspects of signage for Palmas del Mar. Mr. Vasse feels that Palmas does not have the appropriate signage as people tend to get confused and lost. Something needs to be done, since the problem will get worse as the community continues to grow. He suggests that a signage committee be appointed to look into this matter.

Mr. Edd Siler indicated that many years ago there was a study made that resulted in the signs actually posted in the community. Commercial business were supposed to advertise their location. Mr. Raúl Rivera pointed out that the problem with the study referred by Mr. Siler was that it depended on dividing Palmas into certain resort areas that never materialized.

Mr. Jaime Morgan indicated that the Disney complex should be used as a reference, since they are experts in effective signage. Perhaps consultants from that area could be used to give Palmas some ideas. Mr. Morgan offered to look into this matter.

#### **VIII. ADJOURN**

The PHA Board adjourned at 11:05 am upon a motion by Mr. Julio Bagué seconded by Mr. Joseph Maqueda.

