

**PHA BOARD MEETING
JANUARY 19, 2007
MINUTES**

Members Present

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

Other Present

Antonio Maldonado
Daisy Diaz
José Nuñez
Randy Biglow

I. CALL TO ORDER

Mr. Luis Lomba, President, called the meeting to order at 8:50 am. Mr. Lomba welcomed Mr. Randy Biglow and Mr. José Nuñez, security consultants who performed a recent security assessment of Palmas del Mar and an evaluation of Palmas security services in September 2006. [Messrs. Biglow and Nuñez will summarized to the Board their findings, which are included in a report that will be discussed at the up coming PHA Security Committee Meeting.](#)

II. APPROVAL OF MINUTES

[The](#) minutes of the November 17, 2006 meeting were unanimously approved upon a motion by Mr. Manuel Morales seconded by Mr. Félix Santoni.

III. PRESIDENTS REPORT- MR.LUIS LOMBA

a. Security Survey

Following the PHA meeting in August 2006 some members of the Board [expressed concern](#) regarding the quality of services and the security situation at Palmas, PHA commissioned outside consultant experts in the field to evaluate the security operations and to provide an overall security risk assessment of Palmas del Mar. [The](#) assessment was completed in September 2006 and a final report was received in November. Copy of that report was sent to [the](#) Board members in November 2006.

Mr. Lomba introduced Mr. Randy Biglow, President of Protection Design, Inc., security consulting specialists who performed the evaluation to present a summary of his findings and to answer any questions the Board may have regarding his report.

Mr. Biglow proceeded to present a summary of the findings, [conclusions](#) and recommendations contained in his report and answered questions [arising](#) from the Board on various aspects of security within the Palmas community and surrounding neighborhoods. Mr. Biglow underscored areas of his report pertaining to: [\(1\)](#) perimeter fencing short falls, [\(2\)](#) need for additional personnel, [\(3\)](#) need to acquire mobile surveillance systems and security tour systems, [\(4\)](#) posting of operational procedures (SOP's) at every post, [\(5\)](#) standardization of uniforms, [\(6\)](#) re-training security personnel into proactive role versus reactive role, [\(7\)](#) the use of less-than-lethal equipment, [\(8\)](#) clarifying the principal role of the beach patrol, and [\(9\)](#) the need to standardize all security services to every residential area under a single service provider, if possible.

Mr. Walter Fournier asked if an escort program to the Hotel Candelero could contribute to deterring crime within Palmas. Mr. Biglow indicated that escorting people is not realistic due to the high number of guests and people who daily visit all the open areas and commercial sectors [of](#) Palmas. He recommends that guards be more [proactive in](#) engaging people [so as](#) to keep them from going or moving through unauthorized areas.

Mr. Félix Santoni inquired into the level of [individual](#) quality of security officers at Palmas versus other places. Mr. Biglow replied that Palmas officers are similar to above average compared to other areas. If you pay more you should get better quality officers. Mr. Jaime Morgan asked if Mr. Biglow had experienced high quality officers at Puerto Rico and Mr. Biglow answered affirmatively.

Mr. Siler inquired into the guards knowledge of SOP's or post orders. Mr. Biglow replied that the training program in place is good but officers need to be tested on knowledge of SOP's or post orders with [some](#) frequency. Mr. Siler followed up by indicating that security guards [must carry with them](#) standard equipment such as flares, traffic safety triangles, flashlights, rain gear, etc..

Mr. Julio Bagué inquired into the possible use of dogs. Mr. Biglow replied that he has extensive experience with the use of dogs and [that except for the use of perimeter patrols, he would](#) not recommend their use for [the rest of](#) a community such as Palmas del Mar.

Mr. Joseph Maqueda inquired into the ideal type of perimeter to deal with crime at Palmas. Mr. Biglow pointed out that in a resort such as Palmas with many kilometers of open beach areas and too long of a perimeter along the golf course, 906 road and other areas is impossible to provide a perimeter that will preclude criminal or delinquent intruders. However, he pointed out that in spite of perimeter deficiencies, hard-core criminals who live in nearby communities are staying away from Palmas. [These people are](#) not the typical individuals you must be concerned with to jump or come through a perimeter. [However, a](#) properly posted and illuminated perimeter can be a deterrent to trespassers, but [these actions](#) do not guarantee [the community](#) security.

Mr. Lomba thanked Mr. Biglow for his presentation and report. PHA will be contacting the consultants for technical assistance with the mobile surveillance and the Security Tour systems. Mr. Lomba also asked Mr. Antonio Maldonado, during [the Executive Director's Report](#), to [follow-up on](#) the actions [pending implementation and those](#) already taken by PHA, as a result of the security evaluation and report.

B. PHA Building

The [construction of the](#) PHA Building is [on scheduled and the structure](#) looks [impressive](#). [That is, the](#) structural work is almost complete. [The](#) installation of the steel roof is [in the final phase of completion](#). In terms of loan disbursements, 50% has been [disbursed to the contractor](#). The overall project [completion](#) is about 61% [finished](#). Mr. Raúl Rivera added that work performed is of excellent quality and [confirmed it is](#) on schedule. [The](#) project should be finished by August 2007.

C. Artificial Reef Project

An interagency meeting was held on December 6, 2006 sponsored by the Corps of Engineers. [Dr. Torrella made a](#) presentation detailing the studies and proposed final design. The project was well received [by](#) the regulatory agencies [and they offered some guidance](#) regarding the permit process. A joint permit application with supporting documentation is being put together by Frank Torres who is assisting the Artificial Reef Committee as a consultant in the process.

From the discussions at the interagency meeting it was made clear that the permit process may be a difficult one. [Obtaining](#) the categorical exclusion that [PHA/PDMPI was](#) hoping to [get, may prove to be more difficult than anticipated](#). That is why the presentation to the secretary of the [Department of](#) Natural Resources (DNR) and getting DNR to become the [sponsor](#) agency is key in the process. Should DNR recommend a categorical exclusion, the [Environmental Quality Board](#) [would most likely](#) go along with [such](#) recommendation.

Regarding costs PHA is working on alternatives with [construction](#) company experts on this type of work to come up with options that will meet the design criteria at the lowest cost possible. So far, [preliminary](#) cost estimates received place this project [in the range of](#) \$9 to \$12 million.

The Artificial Reef Committee will be meeting next week to discuss the results of the interagency meeting and to review the joint permit application that is being put together by Frank Torres. Mr. Raúl Rivera is coordinating the meeting with the secretary of the [DNR](#). Mr. Luis Rodríguez indicated that the application for the Categorical Exclusion should be made before submitting the Joint Permit Application. [Mr. Rodríguez](#) will be drafting the Categorical Exclusion application.

D. Dialogue Committee on Beach Access

This committee has been working very well with the Candelerio Point developers. Mrs. Rita Molinelli along with the other members of the committee which includes Walter Fournier, Raul Rivera, Ricardo Collazo and Tony Maldonado has held a series of meetings with the developer and significant progress [was](#) achieved on this matter.

Mrs. Rita Molinelli reported that a final plan will be presented to the Committee at a meeting scheduled on January 25, 2007. [The](#) plan contemplates a beach access between Crescent Beach and Candelerio Point six (6) meters wide. The easement will have 33 parking spaces for golf carts, landscaping and a small turnaround circle at the end of the beach access. If acceptable [to this Board](#), [the](#) proposal will be included in the final design plans to be submitted to ARPE for approval.

The PHA Board thanked Mrs. Molinelli and the Beach Access Dialogue Committee for the excellent work [that is](#) being done on behalf of the community.

E. Marbella Park

The litigation regarding the lawsuit continues. A motion [from the other side](#) for partial dismissal of the case was received. PHA lawyers are in the process of answering that motion. No negotiation proposals or settlement offers have been received from any of the defendants. As indicated at the last Board meeting, PHA is willing to entertain any settlement proposals but such proposals must be serious and channeled correctly. If a meaningful proposal is received, a special committee [would](#) be appointed to pursue such an alternative.

F. Palmanova Park

As suggested at the last Executive Committee meeting PHA is seeking an appraisal of this parcel as part of its negotiations with the owner. Should the value of the parcel be higher than the sale price, it may be attractive for the owner to convey the parcel as a donation and obtain a tax credit for the appraised value. Money set aside for the purchase [would](#) then be used for improvements to the parcel.

G. Fox Case

An evidentiary hearing before federal magistrate Justo Arenas is scheduled [for](#) March 13th to determine status of residency of the Fox and to determine whether the case will be seen at the Federal Court or [referred to](#) the Puerto Rico Superior Court. PHA lawyers have also filed for dismissal of [the Fox](#) counter lawsuit based on its frivolous allegations. To date no evidence of ownership has been presented by the Fox regarding the invaded open area which is the object of PHA lawsuit.

IV. TREASURERS REPORT – MR. SALVADOR RAMOS

Mr. Salvador Ramos reported that the auditors have begun to work in the 2006 [financial statements](#). The end of the year numbers are not significantly different from the end of the year estimates. There are sufficient funds and liquidity to [effectively](#) manage PHA operations. In terms of revenues and expenses, Financial Statements are very much in line with the budget thus there should be no surprises with the end of the year numbers.

The PHA Board approved the Treasurer's Report upon a motion by Mr. Raúl Rivera seconded by Mr. Joseph Maqueda.

V. EXECUTIVE DIRECTOR'S REPORT – MR. ANTONIO MALDONADO

A. Security Survey Actions

[The](#) Fencing/Perimeter Walls, particularly those adjacent to [outside](#) communities are being evaluated for additional security measures such as the installation [in existing fences/walls](#) of concertina wire and sensors similar to the work done in Palmas Plantation. This is particularly critical in the Sunrise area where several intrusions have taken place within the past few weeks. [Also,](#) similar measures are being considered for Palmas Reales. Meetings [were](#) held with the Boards from these regimes.

Concertina wire has already been installed at the end of Port Road and at the area at the end of Paradisus Road (next to Schultz property), behind [the](#) water tanks [area](#), behind La Jolla area and in [easy](#) avenues of approach between Palmas Plantation and the river. [The](#) biggest unprotected perimeter at night is the golf course and areas [close to](#) Buena Vista.

[Additional personnel were](#) assigned to both gates during peak [hours](#). PHA exercises absolute control as to who gets AVI cards. Homeowners must bring car registrations and [prove of insurance before the AVI cards are issued](#). PHA is [making a cost/benefit analysis](#) into acquiring [a](#) mobile surveillance system and a security guard tour system.

There are no penalties associated with trespassing or violating the access control ordinance. The Municipal Assembly has refused to incorporate PHA suggestions in the [municipal code](#). Signs prove fruitless without penalties. They may deter a non-criminal intent trespasser but it will not necessarily deter a habitual delinquent.

Perimeter lighting initiatives [are](#) limited by lack [the](#) of [electric power](#) infrastructure. SOP or Post orders for each post and patrols, [once revised, will be](#) posted. [Non-English speaking personnel were](#) removed [from the force](#). Uniforms are being [inspected](#) for appropriateness, cleanliness and image. [Appropriate personnel supporting equipment will be issue](#).

Every security officer assigned to PHA duties has been interviewed by PHA Security Director to insure he is fully knowledgeable in his duties and assumes a proactive role within the community. Personnel records were reviewed to assure that every member of the force meet compliance with license requirements, police good conduct certificates and drug tests, etc..

Each individual regime/residential area has its own access control equipment. Programs for automatic access are different by design. For areas without 24-hour guards, access security is provided through the use of remote control devices.

The law in Puerto Rico prohibits certain less-than-lethal equipment such as pepper spray. The security committee does not recommend batons. Patrols do have handcuffs.

Beach Patrol personnel have signed a certificate where they acknowledge that their primary duty is security. They were re-trained to insure they understand their primary security role as well as their secondary water safety role. Proper uniforms and water safety equipment (rope and lifesaver) have been issued. PHA is coordinating water safety/rescue courses for these personnel.

Formal procedures and instruction (SOP) for the tactical team were developed. These additional security guards are given special watch duties where delinquency trends are noted.

Contingency plans, to include additional personnel, are implemented during holidays and special events. A separate budget item is set aside for this purpose.

CCTV Cameras are installed at all the main and service gates traffic lanes. These cameras record image of driver, vehicle and license plates. The system can store information for up to 3 months. At that time the recorded information is downloaded into CDs' and stored for investigation record purposes.

Excellent interaction exists at all levels with the State Police to include the Police Superintendent and the Municipal Police. Meetings are held periodically with these officials to review criminal activity in the area and set up special operations within Palmas. State and Municipal Police are actively patrolling in Palmas del Mar on a daily basis.

A good rapport now exists with all security companies providing services in Palmas del Mar. Periodic meetings and information exchanges are being held to address particular situations within their regimes. They are now participating in PHA security committee meetings.

Golf cart and bicycle patrols are used during holy week and summer holidays.

B. Security Statistics for December/Year End 2006

Zero homicides, rapes, sexual aggressions, robberies or car thefts were registered during 2006. A total of 46 burglaries were reported. Eight six (86) illegal appropriations were reported to the Police; however, another 93 were recorded by Palmas Security but the persons reporting the missing property had no interest in reporting it to the Police.

Trend of burglaries is developing in Sunrise; five within 5 weeks--same pattern. Additional security personnel are being deployed. Also, the Puerto Rico Police is actively patrolling the area. Employees with criminal record from neighboring areas to Palmas were identified and removed. Meetings were held with regimes Board. The Security Director is working on additional measures such as installation of concertina wire, cleaning perimeter zones and blocking holes in such perimeter walls.

Mr. Edd Siler stated for the record that he has read the audit report and is glad to hear that some of the findings in the report are being addressed. In his opinion, PHA should look into access control and consider assigning non-security guards to the positions at the entrances to Palmas del Mar. Also, detailed information regarding the equipment that security guards must have should be clearly spelled in the security contract.

Regarding the substantial increase in illegal appropriations and burglaries that have taken place in Palmas, Mr. Siler believes PHA needs to be very aggressive in dealing with security personnel. He pointed out to a recent break-in at the Palmas Real Estate Center where at 6:50 pm after the offices were closed, someone broke a window, the alarm sounded and a Palmas Security Patrol responded. However, he believes, that the security patrol did not check the building otherwise they would have discovered the broken window. Approximately 30 minutes later, according to Mr. Siler, another window/door was broken or kicked in. The alarm sounded again and Palmas security responded 20 minutes later and again, according to Mr. Siler did not check the building and left. A theft (laptop) took place in that building.

Regarding this incident, Mr. Siler indicated that he has written two e-mails to Mr. Maldonado, to Mr. Neris and to the Security Director and he is yet to get a response as to why the buildings were not properly inspected. Mr. Siler added that security contracts must place accountability to the contracting firm, as well as the security guards.

Mr. Walter Fournier inquired into the requirement of having developers built perimeter fences around new projects. Mr. Jaime Morgan replied that this is an ARB requirement to have perimeter fences built during the initial phase of a project. These are ten (10) foot walls such as the one erected around the Villa Franca II project.

Mr. Morgan also indicated that Palmas Security should be careful with the guards they hire from the local surrounding community such as Buena Vista and Candelero. In his opinion these guards are not going to report someone they detect from those communities committing a crime because they may be afraid of the subsequent harm they may do to them. Thus the hiring of local people may be an additional security problem.

Mr. Maldonado indicated that approximately 80% of people working in security come from the local areas and implementing such a policy or practice may not be feasible or legal. Hiring requirements already include requiring police good conduct certificates, security guard licenses, drug test and polygraph tests. Nevertheless, hiring procedures will be revised to insure the best qualified officers are inducted into Palmas security force.

Note of Clarification:

Regarding Mr. Siler's comments about the break-in at the Palmas Realty center, a copy of the report detailing this incident with copy of the report rendered by the security patrol that responded to the incident was sent to PDMPI on December 21, 2006. For record purposes the report reads as follows:

"On Wednesday, December 29, 2006 at about 8:50 am, alleges Mrs. Joyce Kuhn, complainant, that personnel assigned at the Palmas Real Estate Center informed her that when they arrived at the Center discovered that the window assigned to Mrs. Giana Mendez and another window in the back of the building had a broken glass. This window is locked with a key and the perpetrator could not open it. The person filing the complaint indicated that a Dell laptop valued at \$1,600, located in Mrs. Mendez office was missing. At Mrs. Kuhn's request Palmas Security contacted the Puerto Rico Police and Agent Santiago responded assigning complaint number 2006-4-036-014631. Also, Agent Nazario and Agent Ortiz from the Police Criminal Investigations Corps (CIC) Technical Services Division responded and took over the investigation.

The report was taken by Security Patrolman Edwin Felix and Mrs. Mendez informed in front of Mrs. Kuhn and Mrs. Siler that when she left the building at 6:45 pm she noticed that there was a security patrol in the area. Security Patrolman William Marcano who responded to the alarms was interviewed and informed that an alarm was reported at 6:40 pm and again at 6:55 pm. On both occasions he verified the building surroundings and everything was noted normal".

Report concludes that incident occurred between 6:45 pm and 6:50 am. Subsequent information indicates that when Patrolman Marcano responded to the first alarm Mrs. Mendez was still inside of Palmas Realty premises and reported everything normal. During his response to the second alarm, approximately 15 minutes later, he crisscrossed path with Mrs. Méndez as she was driving off the area. He reaffirmed his declaration that he inspected the building surroundings and did not notice any broken windows or abnormalities.

C. Visit by U.S. Fish & Wildlife Services (USF & WS)

On January 11, 2007 Marelisa Rivera, USF & WS inspector paid a visit to PHA to inspect Palmas compliance with the Sea Turtles Habitat Conservation Plan (HCP) and the

U.S. F & WS Incidental Take Permit (TE). In terms of compliance, Mrs. Rivera determined that Palmas is in full compliance with the HCP and the TE. A minor illumination deviation was noted in the Beach Village area between buildings 14 & 15.

Mrs. Rivera also discussed a recent letter sent by Mr. Jaime Morgan where he expressed concern with PHA amending the Incidental Take Permit to include the Surfside and the Shell Castle beach areas. During the meeting with Mrs. Rivera it was clarified that PHA intentions were not to modify or amend the Incidental Take Permit but to extend the same conservation measures outlined in the Palmas HCP to other areas not covered by the Take Permit such as the Surfside and the Star Shell beach areas. These measures are limited to the Maritime Zone area and, except for the posting of required warning signs to beach [visitors](#); these measures do not impact the green/open areas adjacent to the beach areas. Mrs. Rivera, who also visited the areas in question, welcomed this initiative and suggested that there was no need to amend the Take Permit for these areas unless there was a possibility of an incidental take. She also suggested that these conservation measures be incorporated in the USF & WS Coastal Program Project as part of the beach conservation program for which USF & Ws can provide funding. In order to incorporate the conservation measures in the Coastal Program Project a letter needs to be sent to USF & WS outlining such measures.

Mr. Jaime Morgan pointed out that PDMPI's reservations regarding extending the Take Permit were technical and based on the fact that PHA is not the owner of the properties adjacent to where the permit was being extended. Owners of these properties must be consulted, and they must sign [a document](#) accepting to be included in the Habitat Conservation Plan and Take Permit since they will have ultimate responsibility if a "taking" takes place in those areas and they are found at fault.

[Here again, Mr. Maldonado clarified](#) that the conservation measures being extended only include the beach and maritime zone areas and that the Incidental Take Permit is not being amended or extended. The areas adjacent to the areas where the conservation measures are being extended, are [indeed](#) green/open areas designated in plans approved by ARPE and [outlined](#) in registered deeds. There are no private homes abutting these maritime zones.

Mr. Luis Lomba instructed Mr. Maldonado to reply to Mr. Morgan's letter clarifying this matter.

D. Cart Path Illumination Project

Solar illumination equipment [for](#) phase I of [the cart path illumination project](#) is on order. Design and installation plans are being prepared for submittal to the ARB. [The project](#) was previously presented and approved by the Board and included in the 2007 Budget.

E. 923 Entrance Project

This project should be completely finished by the end of January. Landscaping and calibration of access control equipment remains [in progress](#). The 923 Construction and Cost Sharing Agreements included the installation of a 50-vehicle parking lot for beach visitors in accordance with the Municipal Ordinance that authorized the Access Control gates for Palmas del mar. [This requirement was overlooked and therefore](#) not included within the scope of this project. As a result of the project construction [works](#), the temporary parking that was enclosed by a cyclone fence which was being used to satisfy the ordinance requirement was eliminated and the parking no longer exists. This matter was [referred](#) to the attention of Danny Torrellas, [PDMPI](#) Project Manager, and he has brought it up to Mr. James Shanks for a solution. This item requires resolution in order to avoid non-compliance with a municipal ordinance. It has been suggested that 50 parking spaces from PDMPI's parking lot located near the 923 entrance be dedicated to satisfy this requirement.

Mr. Edd Siler indicated that in reference to the beach visitors parking lot, the municipal ordinance also required that transportation must be provided to beach visitors and questioned if PHA was doing that. Mr. Maldonado replied that when the beach parking was established, two large vans were acquired for transporting people to the beach. [Beach visitors used the vans very little.](#) [When these vehicles](#) became [obsolete and unusable](#) they were disposed [off](#). Since that time and for several years now PHA Security has been fulfilling this role of providing transportation to the beach to those visitors who request such service.

VI. NEW BUSINESS

A. Delegates Committee Inputs- Mr. Julio Bagué

Good attendance at the last Delegates Committee meeting [was reported](#). One important point that came out of this meeting is that several Delegates expressed their unhappiness with the manner in which the ARB is performing its functions.

You may recall, that more than two years ago a special committee was established by this Board [at the request](#) of the Delegates Committee by way of a motion presented by Walter Fournier to look into transferring the ARB back to PHA and to seek ways of improving ARB operations in view of a series of shortcomings [the](#) Delegates felt existed at the ARB at that time. That committee worked very hard for almost a full year and produced a series of recommendations contained in a report signed by the President of PDMPI, the President of PHA, the President of the ARB and by myself as President of the Delegates Committee. That report was presented to the PHA Board and was approved for implementation on January 25, 2005.

Some of the key recommendations contained in that report included among others:

-Developing additional ARB Design Guidelines

| -Increase participation by homeowners in the ARB Board and the [implementation](#) of the ARB Modifications Committee

-ARB pursuing its enforcement role more aggressively to insure project are completed according to plans, design codes and regulatory requirements

-Making sure no endorsements or use permits are given to projects unless they meet design guidelines and all appropriate regulatory requirements

-That a formal information/education program is developed to keep the community abreast of current and future projects and to receive community inputs regarding those projects.

Unfortunately, in spite of these efforts, the ARB has failed to implement some of the recommendations contained in the report. Specifically:

| -No additional guidelines on design aesthetics have been developed and no discussions have been held in the ARB regarding additional guidelines.

-The ARB is not pursuing its enforcement role aggressively to insure projects are being completed according to plans, design codes and regulatory requirements. As an example, in Villa Franca an individual remodeled his home in complete violation of the design codes, the covenants and the ARB construction rules. The case ended up in court who ruled in favor of the ARB and authorizing the ARB to have the illegal construction removed. To date, more than a year since the court order, no action has been taken by the ARB to address this flagrant violation and to remove a community eyesore.

-The ARB is granting endorsements to projects that do not meet design guidelines and regulatory requirements. As an example, the new Caracoles Restaurant has been operating now in the old Oliva's Restaurant site for several months causing a lot of problems to the residential areas around it. This restaurant does not have a use permit endorsement by the ARB and its roof is painted in blue in a clear challenge to the design guidelines.

-There has not been any formal information/education program established to keep the community abreast of current and future projects and to receive community inputs regarding those projects. Significant projects include Harbor Lakes, Palmanova Village, Villa Franca II, Sunrise III, Los Lagos, Plaza del Mar, Caleta del Mar and Solarea.

| These projects have already commenced or are due to start in the future; however, the ARB has played no role or made any effort to inform the community. Some of these projects [were](#) presented to the PHA Delegates as a result of a direct effort between PHA and the developers, but the rest of the community or at least adjacent neighbors are being kept in the dark.

Also, the community had to rely on special committees and the goodwill of developers to secure beach access around projects near the maritime zone because the ARB has not incorporated in its design guidelines such basic regulatory requirements. Again, the ARB is not being asked to replace the regulatory agencies or to issue permits that by law only those agencies can issue. What [we are asking](#) is [for](#) the ARB to have some guidelines so that when a project is presented it has some bench marks to check the extent of those permits and to make sure the interests of the community are being looked after.

Twice, has the President of PHA written to the President of the ARB requesting that such broad beach access regulatory guidance be incorporated in the Design guidelines of projects and the ARB has refused to do so. The inclusion of regulatory requirements is a key part of the recommendations contained in the ARB Special Report. Also, I wrote a letter to Mr. Shanks basically asking that the ARB complies with the recommendation of the ARB Special Committee, but to date, no [direct](#) reply has been received. [Mr. Shanks did referred to my letter in his reply to Mr. Lomba. This action in no way represents an answer to me; nor he addresses each of the items raised in my letter.](#)

[Nevertheless, PHA](#) has achieved significant progress regarding beach access in the Candelero Point area, thanks to the good work being done by the Beach Access Dialogue Committee appointed by the PHA Board together with the goodwill shown by the Candelero Point developer. [However](#), we should not have to rely on a PHA Committee to do that in future projects. That is why we need guidelines in this area so that future projects are [projected by](#) developers knowing what the community expects in terms of beach access; which is no less than what the law requires.

Mr. Bagué added that Mr. Manuel Morales, in his role as a PHA Delegate summarized for the Delegates the work that [was](#) done by the ARB Special Committee and the need to have beach access requirements included in the ARB Design Codes. Mr. Morales also presented two motions aimed at addressing these matters which [were](#) unanimously endorsed by the PHA Delegates [Committee](#). With the President's permission, I would like to ask Mr. Morales to address this subject and to restate for the Board the motions presented and approved by the Delegates.

[The PHA President gave the floor to](#) Mr. Manuel Morales [who](#) proceeded to make the following statement:

“Almost two years ago to date, in January 2005 the PHA Board approved the Executive Report of the ARB Special Committee who worked for several months on addressing several issues surrounding the ARB operations. The members of that committee included Jaime Morgan, James Shanks, Carlos García, Julio Bagué, Walter Fournier, Gabriel Espasas, Luis Lomba and [I](#). We met for the first time on April 6, 2004 and every month thereafter for 8 meetings until we came up with a final report. The Executive Report of the Committee contained several specific recommendations, some of which were already addressed by Mr. Bagué, to include for the ARB to insure projects are built according to plans and regulatory requirements and to make sure endorsements are not given to projects unless they meet design guidelines and all appropriate regulatory requirements.

As it has been discussed at the Delegates Meetings and at these Board meetings, PHA wants to make sure that unimpeded access to beach areas is given to all Palmas residents and the general public in accordance with the applicable laws and regulations governing beach access and that projects built in areas adjacent to the Maritime Zone comply with such requirements. On July 21, 2006 and again on September 14, 2006 the President of PHA made a request to the President of the ARB for the ARB to incorporate in its Design Guidelines and in its review process specific beach access requirements for projects located in front of the Maritime Zone. The reply received is that the PHA Restrictive Covenants do not empower the ARB to establish and authorize a projects compliance with applicable laws and regulations that govern developments near the Maritime Zone. However, PHA is not asking the ARB to issue any permits or endorsements that legally correspond to government regulatory agencies but wants guidance included in the ARB Design Guidelines and in the ARB review procedures to insure the ARB have broad guidance to evaluate these projects. Also, that projects have the necessary permits and that projects plans meet appropriate regulatory requirements.

The President of the ARB has indicated that the ARB already requires projects located in Palmas coastal waters submit their government approved Maritime Zone and approved beach access plans as part of their ARB submission prior to receiving ARB endorsement. However, there are no existing guidance/procedures from which to review such plans or permits. Thus, what we are asking is that such guidelines be established. PHA has already furnished the ARB with the information that should be considered in those guidelines.

According to the Deed of Restrictive Covenants governing the Palmas community, the ARB shall have jurisdiction to approve all original construction on any portions of Palmas del Mar and shall promulgate design and development guidelines (and I would like to make emphasis in the words development guidance) and application and review procedures (altogether called the Design Guidelines) on behalf of the Palmas del Mar Homeowners Association. The Deed of Restrictive Covenants clearly state that the guidelines shall be those of the Palmas del Mar Homeowners Association and that owners, builders and developers shall conduct their operations in Palmas del Mar strictly in accordance with the Design Guidelines.

The Puerto Rico “Administración de Reglamentos y Permisos (ARPE)” granted the ARB recognition as an interested party and indispensable endorser of all preliminary approvals, construction permits and final use permits having to do with the Palmas del Mar development and such recognition in no way limits the ARB from insuring every project complies with the applicable laws and regulations or from performing the most comprehensive review process possible for every project brought up before the ARB. Although the ultimate responsibility for compliance may rest with the government regulatory agencies, the ARB involvement in these matters should be considered a judicious act to help guarantee access to an important amenity resource that belongs to everyone while protecting the interests and the values of the property owners in Palmas del Mar.

The [ARB](#) Special [Committee](#) Report on **Section C** reads, “the committee concurred that the objective of its deliberations was to seek opportunities to enhance ARB effectiveness and operations so it can better serve the community and the interest of its homeowners and developers. Who administers the ARB is not as important as insuring it operates efficiently and in accordance with its charter and governing documents. The Committee agrees that with the implementation of the recommendations contained in this report satisfies the community concerns that gave birth to the Special Committee. Thus at the Delegates meeting I made the following motions that I want to [introduce](#) today at this Board:

I make a motion to request the PHA Board to pass a resolution directing the Palmas del Mar Architectural Review Board to incorporate in its design guidelines and in its review procedures, specific beach access requirements for projects located in front or near the maritime zone in accordance with regulation #17 and regulation #4 as outlined by the PHA President in a letter to the President of the ARB dated September 14, 2006.

And further, to request the PHA Board to pass a resolution ratifying the recommendations of the ARB Special Committee report approved by the PHA Board on January 21, 2006 and directing the ARB to implement such recommendations immediately.

As a second motion, I move that should the ARB refuse to comply with this resolution, the PHA Board should then readdress the transfer of the ARB functions back to PHA.

Mr. Morales first motion was seconded by Ms. Rita Molinelli. Mr. Jaime Morgan objected to the motion because it intends for the ARB to incorporate regulatory aspects beyond the purpose of its charter. According to Mr. Morgan, the ARB cannot become a regulatory agency nor incur professional or personal liability by the Board when it starts assuming overseeing responsibility of regulatory nature. Mr. Morgan referred to Mr. Bague’s statement indicating that most of the problems are related to modifications which are under the initial analysis purview of the ARB Modifications Committee. He questioned [if](#) PHA representatives had voiced these concerns at ARB meetings or whether instructions had been issued to the ARB Executive Director.

Mr. Manuel Morales replied to Mr. Morgan comments referring to the approved ARB Special Committee Report Section II. A.1, second sentence. Preservation of Palmas which reads, “ One of the principal roles of the ARB has been the preservation of the architectural theme and aesthetics of Palmas del Mar...” However, Mr. Morales continued, under the same Section II.A. Item 2 Enforcement Role, reads, “The ARB role is also to perform inspections and enforcement actions to insure projects are being built according to approved plans and that appropriate regulatory requirements and permits are being met”. That is precisely what PHA is requesting, added Mr. Morales.

Mr. Morgan replied that “an agreement is an agreement” and he is not questioning the agreement. He further indicated that PDMPI and the ARB will abide by the agreement and will assist PHA Board members and ARB representatives which include two PHA members to abide by the agreement.

Mr. Manuel Morales again made reference to the ARB Special Committee report second sentence in Section II.A.2, Enforcement Role, which reads “ Although the Committee recognizes that compliance with permit requirements is a function of the regulatory agencies and of the project engineers who provide certifications, nothing should preclude the ARB from pointing out non-compliance matters to developers and regulatory agencies and, if necessary, stopping a project if a deviation will harm or affect the community negatively”. According to Mr. Morales, all these things were considered in detail by the ARB Special Committee and the rejection of PHA request to have these guidelines adopted by the ARB makes [no sense](#).

Mr. Morgan pointed out that the impression given of Mr. Lomba’s letter to Mr. Shanks is that the ARB acts as a regulatory agency in approving regulatory aspects before they go to the pertinent regulatory agency. Mr. Morgan added that, if that is not the intention an agreement can be reached on this matter. Mr. Lomba replied that the letters written to Mr. Shanks as well as the recommendations in the ARB Special Committee report are very clear and specific. The ARB is not being asked to become a regulatory agency but to incorporate on its Design Guidelines certain regulatory requirements to help the ARB in evaluating projects such as those near the Maritime Zone.

[Following the discussion period, by majority vote, the Board approved the first motion as outlined above.](#)

Mr. Morales then restated his second motion as follows, “Should the ARB refuse to comply with the PHA Board resolution just approved, the PHA Board should then readdress the issue of the ARB ownership to have the ARB functions transferred back to PHA. Mrs. Rita Molinelli seconded the motion. Submitted to a vote the motion was approved by the [majority of the](#) PHA Board.

Mr. Raúl Rivera pointed out that some of the concerns expressed [by some members of the Board](#) could be [minimized](#) if better communications existed between the PHA, ARB representatives, the Delegates and the PHA Board. PHA representatives at the ARB should be coming to the PHA Board and report what is [happening](#) at the ARB. [Furthermore](#), Mr. Rivera indicated that the ARB needs to be restructured so that it becomes proactive in informing the community. The resolutions reached today at this Board meeting should be [referred](#) to PHA representatives at the ARB Board to insure they [get implemented](#). Regarding the second motion, Mr. Rivera expressed his concern in terms of changes to the Covenants that may be required in order to effect a change of ownership and composition of the ARB.

Mr. Morales pointed out that the work of the ARB Special Committee two years ago which resulted in a specific agreement was precisely to deal with the concerns expressed

by Mr. Rivera and reconcile the frustration being expressed by the community through the Delegates regarding the manner in which the ARB was operating. Mr. Morales added that the communication problem alluded by Mr. Rivera can be easily solved by the ARB implementing the recommendation that specifically deals with this problem.

Mr. Walter Fournier pointed out that the people involved in the drafting of the report and some of the signatories of the agreement have communicated with the ARB seeking compliance with its recommendation: however, there is an apparent lack of resolve to do what is required. In this regard the ARB has failed to live to what was agreed by its President.

B. Lifeguard Services

Mrs. Rita Molinelli made a motion to have PHA conduct a viability study to determine if life-guard services could be reinstated at Palmas del Mar. Mr. Walter Fournier seconded the motion and it was unanimously approved by the PHA Board. Mr. Maldonado was asked to present a full report at the next PHA Board meeting on this matter.

VII. OLD BUSINESS

A. Traffic Study

Mr. Jaime Morgan had nothing to report but indicated he will have PDMPI's inputs to PHA by next week.

B. Palmas Electrical Substation

Mr. Morgan indicated that the substation should be on line by the end of August 2007. He further added that the substation will guarantee that power will be sufficient to cover existing and future electrical demands for Palmas. Palmas should see an improvement with the major blackouts recently experienced at Palmas as it will have its own high power lines from Monacillo Control Center bypassing the local Humacao infrastructure.

Mr. Walter Fournier pointed out that it is time that Palmas del Mar begins to look at the possibility of going to alternate [renewable](#) sources of electrical energy [by generating its own electricity](#) at lower cost. Mr. Fournier used the Cap Cana project in the Dominican Republic to illustrate how a major development could produce its own electrical power. In the long run the community will greatly benefit from such an alternative. Mr. Fournier then made a motion to have a committee study the viability of pursuing an alternate source of energy for Palmas del Mar. Ms. Rita Molinelli seconded the motion which was unanimously approved by the Board. The PHA President then proceeded to appoint a Special Committee to pursue this initiative. [composed by](#) Mr. Walter Fournier, Mr.

Joseph Maqueda, Mr. Julio Bagué, Mr. Raúl Rivera and Mr. Carlos García (volunteered by Mr. Jaime Morgan). Mr. Walter Fournier will chair this Special Committee.

C. Traffic Circle Water Fountain

Mr. Morgan indicated he has received a proposal from his consultant designer and is [in the process of evaluation](#).

D. Mandarin Hotel

Mr. Morgan informed that the Hotel [project](#) is undergoing some redesign to include room count. Mr. Morgan added he hopes to finalize an agreement on the new program with Mandarin by next week then move on to cost out the proposal.

E. Palmas Inn

Preliminary plans were submitted to the ARB. The ARB requested some changes but the final plans have not been submitted. Height was an issue with the surrounding community and [the developer, to the satisfaction of the neighborhood, addressed that concern](#).

VIII. ADJOURN

The PHA Board adjourned at 11:15 [AM](#) upon a motion by Mr. Walter Fournier seconded by Mr. Raúl Rivera.