

PHA BOARD MEETING
August 11, 2006
MINUTES

DIRECTORS PRESENT

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

DIRECTORS EXCUSED

Félix Santoni
Luis Rodríguez

DIRECTOR ABSENT

Joseph Maqueda

OTHERS PRESENT

Antonio Maldonado
Daisy Díaz

I. CALL TO ORDER

Meeting was called to order at 8:45 am by Mr. Luis Lomba, President. Mr. Lomba gave a warm welcome to Mr. Daniel Vasse who was attending his first Board meeting. Mr. Lomba also expressed, on behalf of the PHA Board of Directors, condolences to Mr. Joseph Maqueda and to Mr. Cándido Neris for their recent loss of their mothers. The PHA Directors echoed Mr. Lomba's sentiments.

II. APPROVAL OF MINUTES

Minutes of the June 16, 2006 meeting were approved upon a motion by Mr. Edd Siler seconded by Mr. Walter Fournier with the following corrections:

- On page six (6) paragraph six (6), line two (2), change the word approve to authorize.
- Page eight (8), Item VI. A. 2, Shopping Mall, add at the beginning of the sentence: "Mr. Morgan indicated...."
- Page nine (9), Item B 1, first bullet point, third line, change the word this to the Candelero Point;
- Page ten (10), first paragraph (bullet point), fifth line, change word was to will be. Also, in this line insert phrase under applicable regulations between the words formula and done.

- Page 10, item 2, paragraph four (4), line one, change the word formal to fully developed.

Mr. Jaime Morgan suggested that if it is desired that items such as the Artificial Reef Executive Summary draft be included in the minutes, they should be included as an attachment instead of being included in the body of the minutes. Mr. Morgan pointed out that often these summaries are not presented or discussed as they were written. Also, the contents of such summaries may contain factual errors that may be corrected during the course of the presentation or noted later on but those corrections are not necessarily reflected in the minutes. Thus, in order for the minutes to be factual, since the presentation may not be quoted verbatim and not being a statement by the Board, it is recommended such documents/ presentation be included as attachments to the minutes as reference material.

In regards to the Artificial Reef Executive Summary draft included in the June 16, 2006 meeting, clarifications made by Dr. Torruella in response to questions and comments by Board Members were not included in the minutes. A final version of the Artificial Reef Executive Summary was received on July 12, 2006. This final report should be attached to the minutes of the August 11, 2006 PHA Board meeting for reference since it varies from the draft presented on June 16, 2006. The Board concurred with Mr. Morgan.

III. President's Report – Mr. Luis Lomba

A. **Artificial Reef** – The final report on the analysis and design of the Palmas Artificial Reef prepared by Dr. Torruellas was received. The Artificial Reef Committee met with Dr. Torruellas to review in detail his report and conclusions. The Committee accepted the report and the next two steps include a construction analysis to establish costs, and going forward to the regulatory agencies to present the project. Additional work may be required in relation to underwater archaeological studies as part of the permitting process.

At the last Delegates meeting the question of costs and who will pay for a project of this magnitude was asked. Although those costs are not known yet, it is reasonable to assume it will be a very costly undertaking of several million dollars. As it has been discussed in the past, to make this project viable it will require the participation and contribution not only of PHA as an umbrella organization, but also the participation of others such as PDMPI, particular developers, the hotel and the government.

As far as PHA contribution to this project, we have said that it may take a loan backed up by a special assessment that can be arranged several ways. But again, we still need the complete scope of costs and the overall financial scheme for the entire project before we reach that step or determination. Mr. Luis Rodríguez is looking into the aspects of the permitting process and in particular the steps that must be taken to solicit and obtain a categorical exclusion. Mr. Rodríguez is also requesting proposals for the underwater archaeological study.

Mr. Lomba asked that Mr. Rodríguez and Mr. Maldonado get together to develop an action plan outlining the permit process, the requirements involved, the steps and sequence to be followed and the suggested timing for the actions required. Also, Mr. Lomba indicated he will be working with Dr. Torruella and the principal partner of a construction company to develop a cost estimate for the project. He expects to have such cost estimate within the next 30-days.

Mr. Walter Fournier pointed out that the Corps of Engineers (COE), as it has been the experience in New Orleans following Hurricane Katrina, does have funds for this type of projects as long as there is public interests. PHA should explore the possibility of tapping into such funds if available.

Mr. Julio Bagué indicated that PHA already explored this possibility with the COE Headquarters in Jacksonville, Florida. He pointed out that, as a result of the work done by the PHA Beach Erosion Committee, Mr. Maldonado and himself met with representatives of COE to explore funding possibilities designated to re-establish eroded beach areas. At that time, PHA was informed in writing that COE had limited funds available for this purpose and did not have anything in the budget that could be allocated to Puerto Rico. Mr. Bagué indicated this does not mean PHA should not try again but simply that it will be a difficult process to obtain any COE funds.

Mr. Bagué also indicated he believes it will be unfair to ask only current Palmas property owners to pay for such a project but that the financial scheme somehow considers a mechanism whereby the contribution of future Palmas property owners is included. He suggested that perhaps this can be done through long-term financing so that future property owners are subject to any special assessment that may be levied to finance the project.

Mr. Raúl Rivera commented that he will oppose any financial schemes that will try to impose higher assessments to beach front property owners to pay for this project. Mr. Rivera believes this is a PDMPI and a community-wide project and PHA burden should be equally shared by all homeowners as it is a project for the benefit of the entire Palmas community.

B. Palmanova Park

As agreed upon at the last Board meeting, PHA has met with Joaquin Soler to start the due diligence process to acquire the Palmanova Park parcel that sits between the Tennis Center and Oliva's Restaurant . In addition to meeting all the legal requirements for a transaction of this nature, we have asked for a certification from ARPE regarding its use as a community park instead of a recreational area exclusively for the Palmanova area as it was originally contemplated in the segregation permit. Also, PHA is addressing the need by Mr. Soler to correct drainage problems in the area before the transaction is executed.

C. Beach Restoration Project

The restoration project of the Surfside and the Shell Castle Beach areas is moving along very well. The clean up of the beach, as authorized by the Department of Natural Resources, is almost complete. It takes a while to do this type of work because you cannot use machinery; it must be done by hand. However, the Department of Natural Resources did authorize the use of a digger and a truck to remove discarded material and for the clean up of the access area and the areas where a pedestrian bridge and a gazebo will be located. A special permit for the bridge and the gazebo is required by DNR and already PHA applied for same.

Mr. Manny Fox, from Shell Castle 31, next to the Shell Castle Beach, submitted a complaint to the Department of the Interior, to the Department of Commerce and to DNR complaining that PHA is undertaking a construction project in the area without the appropriate permits, endangering the habitat, cutting trees and putting at risk his property. PHA has already answered the complaint and has invited the regulatory agencies to perform an inspection. According to Mr. Fox next door neighbor who came to PHA looking for information, he was informed by Mr. Fox that the area was being cleaned to build a restaurant in that location. Mr. Fox's neighbor was correctly informed by PHA about the efforts to clean up the area and was given copy of DNR permit for the project.

The clean up was done with great care and in accordance with DNR guidance, permits and supervision. No trees have been cut and all work done has been properly documented. This information has been sent to the regulatory agencies where the complaint was filed.

PHA believes the actions of Mr. Fox are oriented to divert the attention from the legal lawsuit brought about PHA against him for misuse and illegal appropriation of an open area adjacent to his property and by building a patio wall which blocks normal access to the beach and interferes with the natural flow of waters through the area.

Mr. Fox has filed a countersuit against PHA accusing PHA, among other things, of diminishing Fox's value due to the beach cleaning activities, for alleged criminal activity that has taken place in his property, for PREPA not removing aerial cables on a timely basis and a number of accusations which, in PHA's attorney's view, bear no relation to the case at hand. PHA's attorneys have already moved for dismissal of the countersuit. Mr. Fox has also included the PHA Executive Director, Mr. Antonio Maldonado, PDMPI and PDMU in his countersuit.

Mr. Jaime Morgan raised the question whether Mr. Maldonado's legal representation should be paid by PHA. Mr. Lomba made a motion asking the Board to approve that Mr. Maldonado's legal representation in Mr. Fox lawsuit is borne by PHA. Mr. Julio Bagué seconded the motion. The Board unanimously approved the motion.

Mr. Maldonado informed the Board that Mr. Fox countersuit has been forwarded to the PHA insurance company. Also, he informed that PHA's lawsuit was originally filed in

Humacao's Superior Court but the Foxes invoking diversity of citizenship have filed to have the case remanded to the Federal District Court in San Juan. PHA attorneys have opposed that the case be remanded to the Federal Court. As of yet, no decision has been rendered by the court.

D. Beach Access

Following the last Board meeting where a "Comité de Diálogo" was appointed to look into the beach access issue and other matters, a letter was sent to Mr. Luis Muñiz in relation to the Punta Candelero advising him of the committee and offering to meet with him to pursue solutions that would both benefit the community and developers. A letter of acknowledgement was received from Mr. Muñiz attorney indicating their willingness to meet with community representatives on this matter.

On July 21, 2006 a letter was sent to the chairman of the Architectural Review Board, Mr. James Shanks, requesting that the ARB includes in the review process of projects near the Maritime Zone that such projects be in compliance with the applicable laws and regulations governing beach access. Also, copies of the applicable regulations and a summary of the salient points contained in those regulations were sent with the letter.

E. PHA Building

Mr. Raúl Rivera reported that construction of the PHA building is proceeding on schedule and without a hitch. Minor changes were required in the Security and Access Control areas to accommodate security equipment requirements and space redistribution. Coordination has been effected with the 923 Service Entrance project to provide for the appropriate connections to electricity, water, sewage utility services and to the access control equipment as well. Construction review meetings are being held with the builder every two weeks. PHA Board members are invited to these meetings and to visit the construction site.

Mr. Maldonado reported that a Memorandum of Agreement was signed between PHA and the Community Church regarding common access into both parcels. Also, as approved by PDMPI, approximately 411 square meters of land of the parcels owned by PHA and the Community Church will be exchanged between the two organizations to facilitate the development of both parcels. The costs of surveying and preparing the appropriate legal documents to effect the swap of land will be equally shared between PHA and the Community Church.

IV. TREASURERS REPORT – MR. SALVADOR RAMOS

The PHA Treasurer, Mr. Salvador Ramos, reported that PHA finances are in excellent shape and well managed. The financial statements for the month of July were presented. Following a series of questions and clarifications, upon a motion by Walter Fournier seconded by Edd Siler, the PHA Board approved the Treasurer's Report.

V. PHA EXECUTIVE DIRECTOR'S REPORT- MR. ANTONIO MALDONADO

A. **Security** – Although a very busy summer in terms of visitors to Palmas del Mar, the summer vacation period transpired without major incidents or problems. The average number of visitors during the summer months was approximately 36,000 per month.

Overall Palmas continues to do well in terms of major crimes as no homicides, rapes, armed robberies or car thefts have been registered in 2006. During the month of July there were four (4) burglaries reported; two of them in residential areas (Beach Village and Club Villas). The other two alleged burglaries took place in commercial offices (Pennock Plants and Palmas Realty). Also, during the month of July twelve (12) illegal appropriations were reported to PHA Security. Of these, four (4) took place in residential areas, six (6) in parking areas and two (2) in the Four Points Sheraton Hotel. Seven (7) individuals were detained by PHA Security and five (5) of them were taken away by the Police. The individuals arrested include the ones that were detained while committing the burglary reported in Club Villas.

Mr. Siler pointed out that over the past two months PDMPI has had break-ins in their properties where they have lost over \$10,000 in stolen property. One incident have been recorded in PDMPI Executive Offices, several at the Beach Club and one at the sales center which all are very concerning. Mr. Siler again underscored the need to fill the position of PHA Security Director vacated by Mr. Cándido Neris who now works as a contractor in Palmas. He feels that PHA needs to fill this position to oversee the security contract and security matters at Palmas del Mar.

Mr. Siler also pointed out that the PHA's security contract clearly spells out that all security officers will be bilingual. He feels that dispatchers must be able to handle any type of emergency call coming from a person that does not speak Spanish.

Mr. Siler also added that he has been associated with Palmas Security for many years. It has been his experience that when a Security Company starts hurting for money they begin to cut back on services such as eliminating posts or stopping vehicle patrols until they are called instead of driving around continuously. He suggested that this happens because they are paid every two weeks instead of paying them in advance. When paid in advance, the security company does not have a "crunch" for money in terms of cash flow and does not have to cut back in services. Mr. Siler indicated that although that may not be the case with Palmas Security the largest community association institute in the United States recommends that such contracts be paid in advance.

Mrs. Rita Molinelli pointed out that on one occasion she had a Russian guest who did not speak Spanish encounter difficulty communicating with the guards and in finding the Crescent Beach location. Ms. Molinelli also added that recently a defendant in a burglary case in Beach Villa had to appear alone in court because no one from security

accompanied him to the hearings. It seems that on those instances where community residents are willing to press charges against delinquents someone from the Security Department should go along with these persons.

Mr. Luis Lomba pointed out that PHA is in the process of hiring a Security Director. The Security Committee and the PHA Delegates have been informed of this process. Mr. Lomba also asked Mr. Maldonado to review the English speaking qualifications of the guards being hired under the PHA contract and to also review the training program to insure people are being properly oriented on Palmas geography, contents and locations.

Regarding paying the Security Company in advance, Mr. Maldonado indicated that PHA pays in accordance with the contract and has never missed a payment. Also, as part of the contract requirements the Security Company has a line of credit to back up its operational capital needs. As far as PHA services are concerned, there has been no problem with the contractor in terms of meeting its obligations and providing the required services, filling the posts, providing the required patrols and supplying the necessary equipment for its personnel. Contrary to other companies which have provided security services in Palmas in the past, there have been no complaints from security guards for not being paid on time. He added that paying a company in advance does not necessarily mean they can guarantee the quality of the contracted services.

Mr. Maldonado also pointed out that every PDMPI security incident as well as other incidents mentioned by Mr. Siler have been investigated and documented by PHA Security and the Puerto Rico Police. These cases have been discussed in detail at the Security Committee and special patrol vigilance has been implemented in PDMPI areas. Also recommendations have been made regarding the need to review internal security procedures and to heighten employee security awareness.

Note : Six (6) illegal appropriations in the Beach Club were recorded between May 31, 2006 and June 22, 2006. On June 22, 2006 a Palmas Security Patrol apprehended an individual in the act of stealing Beach Club property. Since that arrest no other incidents have been reported at the Beach Club.

Mr. Maldonado indicated that he personally knows the five (5) persons that work the PHA Security Dispatch and everyone of them speaks English. Also, he informed that as far as he knows most personnel assigned to the Main Gate, Roving Patrols and Beach Patrols also speak English. He will verify the English-speaking qualifications of the persons assigned to these duties.

In reference to Mrs. Molinelli's comments regarding the presence of Security personnel at hearings involving incidents in Palmas del Mar, Maldonado indicated that the standard procedure is to have the security guard which investigated the incident or security supervisors attend hearings involving cases in Palmas del Mar. He will follow-up in the specific case cited by Mrs. Molinelli to determine what happened.

Mr. Jaime Morgan pointed out that he has reviewed the PHA Security Contract and finds it very broad. He suggests that contract should be more specific in terms of scope of work and responsibilities. Mr. Morgan feels that the incidents at PDMPI and the Sales Center are indicative of a security breach that has taken place within the last couple of months and needs to be addressed.

Mr. Lomba wrapped up the security discussions by asking Mr. Maldonado to conduct a broad security survey and operations audit to include all aspects of security within Palmas del Mar. A comprehensive report detailing the results of the audit should be presented to the PHA Board of Directors. Outside consultants are authorized as required.

B. PHA Projects

1. **923 Entrance** – Project is moving on schedule and without problems and on budget. The project is being coordinated with the PHA Building project to insure mutual requirements are met.
2. **Access Control Upgrade**- The project is completed. New AVI cards will begin to be issued within the next 10 days. All new cameras and monitoring systems have been installed. The new system is a substantial improvement over previous one.
3. **Studies** – The Traffic Study and the Electrical Study update are now complete. Reports have been submitted and will be presented to the PHA Infrastructure Committee for a detailed review.

The Traffic Study details the improvements that must be made at different phases of Palmas development. The study recommends expansion of Palmas Drive to four lanes during Phase I. It also addresses the situation at every major intersection within Palmas del Mar. Additionally, the study addresses the parking situation within Palmas del Mar and points out shortcomings in the Marina and Palmanova areas.

The Electrical Study update addresses problem areas and improvements made to the Palmas electrical distribution system since the Electrical Study conducted by PHA in July 2004. The study indicates that most electrical switching units are in good condition as most problems previously pointed out were corrected. However, those units already show a need for preventive maintenance. A similar situation exists with the electrical pad-mounted transformers. Beach Village in particular remains a serious trouble spot. A mix of transformers, some of them in poor condition, remain in this area. This condition coupled with the lack of a back-up system (interrupted since the demolishment of the old Palmas Inn) tends to worsen the overall situation in Beach Village.

Meetings will be held with the PREPA Humacao region to share the results of the study and to develop, if possible, an action plan to address shortcomings listed in the study update.

4. **Cart – Path Illumination-** Proposals for the installation of a solar illumination system along golf-cart path areas were received. Proposals range from \$86,000 to \$91,000 depending upon the type of luminaries selected. The system consists of poles with solar plaques each feeding four luminaries arrayed at 75 feet of distance between them. A total of 10 systems (40 luminaries) are recommended to illuminate critical path areas particularly along Candelero Drive. Future phases may be needed in the Palmas Inn Drive area and certain segments along Palmas Drive.

Upon a motion by Julio Bagué seconded by Rita Molinelli the PHA Board approved this project for inclusion in the 2007 Budget.

VI. OLD BUSINESS

The items under this heading were already discussed under Section III & V.

IV. NEW BUSINESS

A. Delivery Truck Restrictions

Mr. Daniel Vasse discussed a request made by Mr. Michael Shulevitz at the Security Committee restricting delivery trucks to certain days and hours. Mr. Vasse suggested that the community must be careful with the restrictions as some deliveries are subject to airline schedules and contain fresh products and perishable items. Also, to his knowledge there have been very few accidents or incidents reported involving delivery trucks. He does not oppose establishing access rules but there must be some exceptions to accommodate those instances where specific persons or businesses may be affected. Mr. Maldonado indicated that a list of exceptions is being developed in coordination with the Business Association. The list of exceptions will be provided to the Palmas Security department.

B. ARB Use Permits

Mr. Daniel Vasse pointed out that ARB inspectors should make sure that constructions are being done in accordance with approved plans. Also, that plans are not approved for construction in areas for which proponents have no title. This could have prevented the Fox situation.

Mr. Siler and Mr. Bagué clarified that the ARB requires certified site plans clearly delineating property lines and no longer approves plans contingent upon future actions

(“approved subject to”). This was not the procedure years ago which may have resulted in certain illegal constructions.

C. Information Center

On behalf of the Palmas del Mar Business Association Mr. Daniel Vasse presented a conceptual proposal for the establishment of a centrally located information center. The general layout calls for a drive-through and parking area off Palmas Drive where people will stop to find out information about the location of every business and service activity within Palmas. A large map of Palmas and promotional information will also be placed at this location. Ideally such a location would be as close as possible to the Main Gate. Mr. Vasse suggested that perhaps such a project could be located in an existing green area adjacent to Palmas Drive such as the ones in front of Villa Franca/Palmas Reales.

Mr. Maldonado indicated that certain green areas that had been initially deeded to the Department of Sports and Recreation were subsequently transferred to the Municipality of Humacao. PHA is in the process of identifying those parcels. PHA will also look into other possible areas where such a project could be established.

Mr. Vasse indicated that what he is looking for at this time is support from the PHA Board for the concept in general. If the Board concurs with the concept the Business Association will continue to elaborate the project details, identify possible locations, develop a financial scheme to support the project and finally go through a design and approval process.

The PHA Board approved the concept of establishing an information center presented by the Business Association.

D. Business Association Fees

Mr. Daniel Vasse informed the Board that the Business Association is having difficulty collecting the membership fees. He would like to find a mechanism that will help the Business Association in such endeavor.

A suggestion was made to have the Business Association fee included in the rent paid to the owner of the commercial space when the owner is not the member of the Business Association. The owner of the commercial space will then pass the money collected to the Business Association. However, the issue gets complicated because not all members of the Business Association are property owners and some commercial property owners do not operate those properties themselves but rent out the commercial space. Those commercial space renters who are operating a business at those locations are the ones who become members of the Business Association. It would be extremely difficult to impose an assessment on someone who is not a member of the Business Association. That may be possible if all the business property owners were to become members of the Association. Another limitation is the lack of legal power to force a commercial space owner, who is renting that space to someone else, to become a member of the Business

Association. Another limitation is the lack of legal power to force a commercial space owner, who is renting that space to someone else, to become a member of the Business Association. The Business Association By-Laws and membership structure is for business owners not commercial space business owners.

It was recommended that the Business Association takes a look at how the Slipowners Association is structured to see if a similar fee collection scheme could be developed. Assistance from attorneys well versed on this matter will be required.

E. Delegates Committee Inputs

Mr. Julio Bagué informed that the last Delegates Committee meeting was well attended. The highlight of the meeting was a presentation by Dr. Torruella on the Artificial Reef Project. The community, as represented by the Delegates, showed interest in this initiative. It is felt that the community will support this project if it is financially structured in a manner that everyone, present and future, shares the burden of costs.

The Delegates were given a comprehensive summary of issues and on-going projects at Palmas.

F. Parking in Anchor's Village

Mr. Manuel Morales and Mr. Daniel Vasse discussed the problems being encountered at the parking area of Anchor's Village. The parking is becoming too small as it is being invaded by people from Club Cala and people who are storing boats at El Varadero. There is no parking in El Varadero for their workers or for people using boats stored in the Dry Stack. Additionally, the establishment of the new restaurant next to the Varadero Supermarket has worsened the problem. The problem will exacerbate when construction starts in the parcel of land between San Marcos and Península de San Juan in front of Las Villas. This lot is being used by Las Villas visitors and Club Cala guests during high visitor activity periods.

G. Punta Candelero

Mr. Julio Bagué questioned the changes made in the parcel of Punta Candelero without changing the Master Plan. Mr. Jaime Morgan pointed out that the Master Plan is not a segregation plan but a conceptual use plan with proposed densities. Once land is sold the actual segregation takes place and the Planning board is notified of the new configuration.

VII. ADJOURN

The PHA Board of Directors adjourned at 11:20 am upon a motion by Mr. Daniel Vasse seconded by Mr. Julio Bagué.