

Jupiter Bay Condominium Association Newsletter

December 2017

Paul St.Clair - President
Marie Rapp - Vice-President
Frank Kania - Secretary
Ray Larson - Treasurer
Alma Bjorklund - Director

President's Message:

- Fall was a busy time at Jupiter Bay with repair and cleanup from hurricane Irma, 2018 budget preparation, and litigation activities dominating the Board's and Property Manager's time. As detailed below, we've made significant progress on all three of these items. Most hurricane damage has been addressed, the 2018 budget was presented and approved at the November 3rd board meeting, and additional initiatives were taken to facilitate bringing the restaurant litigation to closure.
- Also, the return of many part-year residents to Jupiter Bay has flooded the Association office with work orders and other items requiring follow-up.

Budget Meeting:

- The Annual Budget Board Meeting was held at 10:00 AM on November 3rd, 2017 at the West Pool Pavilion. Sixty-three people attended the meeting.
- Following are highlights of the meeting:
 - We are expected to end 2017 approximately \$14,000 over our \$2,031,852 budget, excluding hurricane-related expenses (see below). This will more than use up our \$5,595 positive fund balance reported in the 2016 audit report. The shortfall is addressed in the 2018 budget.
 - This year's overspending for elevator and building repair & maintenance, utilities, payroll, and legal fees was partially offset by positive budget variances

in landscaping, wind insurance and lake/irrigation maintenance.

- Reserves for the Association's capital replacement items continue to grow. Our total reserves, invested in CDs and money-market funds, are projected to be over \$1.7 million at year end 2017.
 - For 2018 the replacement value of the Association's capital assets was adjusted by a 1.9% annual inflationary rate, resulting in a \$6,421,615 replacement value. 2018 reserve contributions of \$489,424 should help eliminate the need for special assessments, provide sufficient funds for painting the East and West buildings in 2019, and build reserves in underfunded areas.
 - The \$2,190,717 proposed 2018 budget that was previously mailed to all owners was approved at the Budget Meeting. It consists of \$1,701,293 in operating expense and \$489,424 in reserve contributions and represents a 7.82% increase over 2017.
 - The addition of Comcast Internet, projected to start in March 2018, is a major factor in the budget increase. See "Comcast Contract" below.
- Additional detail regarding these items is available on the "Board Meetings" page of the Association's Website, and a summary of the budget with the new maintenance fee schedule is shown on the "Financial" page of the Website.

Maintenance Fee Increase:

- The new budget will increase maintenance fees on January 1, 2018. The following chart shows the new maintenance fees:

Condominium	2018 Quarterly Maintenance*	2017 Prior Maintenance
East	\$1509	\$1399
Villas	\$1402	\$1369
West A	\$1567	\$1422
West B	\$1538	\$1414
West C	\$1490	\$1397
West D	\$1532	\$1406
West E	\$1545	\$1414
West F	\$1544	\$1417

- New coupon booklets will be mailed out the end of December from BB&T reflecting the new fees.
- If you use online banking, you will need to update the bill pay amount for the new maintenance fees. If you are enrolled in BB&T's Association Pay (ACH) online, the new 2018 maintenance fee amount will be automatically deducted on the 3rd day of the quarter, or next business day after the 3rd.
- If you have any questions regarding fees or payments, please call or email Sara Seidel in the Association Office. The telephone number is 561-746-5857 and Sara's email is: JBAdmAsst@comcast.net.
- You can still mail or drop off your checks at a BB&T branch or the Association Office at:
 - Jupiter Bay Condominium Association
 - 275 Palm Avenue, D105
 - Jupiter, FL 33477
- Checks are to be made out to Jupiter Bay Condominium Association, Inc.

Litigation Update:

- The Association continues to pursue legal action against its Tenant, Jupiter Bay Racquet Club, Inc (JBRC), who is responsible for the Restaurant and Tennis Club. Our goals are to have our properties (Restaurant and Tennis Club) properly maintained, managed by experienced and competent individuals, open for use for at least nine months each year, and operated according to the terms of the Master Lease.
- Following is an update on progress and events since the July newsletter:
 - As most of you know, the Association's on-site restaurant did not reopen on October 1. This is in violation of the Lease terms which prohibit it from being closed for longer than three consecutive months during any calendar year.
 - Michelle Perrin, who has become president of JBRC, had met with several Board Members on August 4 and expressed her desire to personally reopen the restaurant. This did not happen, the Association has not received any information on new tenants, and there's no sign that the restaurant is being prepared for reopening.
 - On October 4th the Association's attorney, Dane Leitner of Ward Damon, sent a letter to JBRC citing Continued Material Breaches of Lease Agreement and

Failure to Reopen Restaurant with a 15-day notice to cure. This letter also mentioned damage from hurricane Irma that needed to be addressed by JBRC pursuant to the Lease Agreement.

- On October 23rd the Association's attorney filed a Motion for Leave to File Amended Complaint. The motion was granted at an October 26th hearing in Palm Beach County court. The amended complaint, which was for possession of the Master Lease by Summary Procedure and for costs and attorney's fees, alleges that the Defendant (JBRC):
 - Assigned, mortgaged, or hypothecated the Lease or Leased Premises without the prior written consent of the Plaintiff (JBCA).
 - Failed to ensure that the restaurant was not closed for a period longer than three consecutive months during any calendar year.
 - Failed to have the restaurant operate continuously during normal business hours throughout the term of the Lease.
 - Failed to purchase and/or maintain the appropriate insurance coverages pursuant to the Lease and/or failed to timely provide proof of insurance to Plaintiff.
 - Failed to complete the necessary repairs/maintenance and renovations to the restaurant as required by the Lease. Such items include, but are not limited to, the "Plantation Room" (aka banquet room) which comprises the second floor of the restaurant building, and the outdoor bar canopy.
 - Failed, for multiple years, to provide Plaintiff use of the Plantation Room.
 - Failed to provide remote fire and burglar alarm monitoring in accordance with all applicable governmental codes.
- On October 26th JBRC's attorney, Jonathan Chane, filed a Countersuit against the Association and others. The suit alleges that the Association's Board members, the prior restaurant tenants and Frank Girardi, who holds JBRC's \$200k Promissory Notes, "conspired to terminate the Master Lease to gain possession of the Leased Premises and negotiate a new management agreement on more favorable financial terms." (This is not true and was refuted by our Directors & Officers (D&O) Insurance attorney, whose response is provided below.)

- On November 1st the Association's Board Members and Richard Rodriguez, of Liberty Fire, met Michelle Perrin at the Restaurant and conducted an inspection, the results of which were documented in an Inspection Report sent to the Association's attorney.
- On November 2nd JBRC filed a new Answer and Affirmative Defenses against our amended complaint, and a Motion to Dismiss. As a part of this filing, JBRC demanded a jury trial in the eviction case. They argue that the breaches are not material and therefore the court should not allow the lease to be forfeited because of its long-term duration.
- On November 20th the Association's attorney sent a letter to JBRC regarding monetary and nonmonetary breaches, and included the Restaurant Inspection Report. The breaches included:
 - A monetary breach of failure to pay the Association an estimated property tax of \$12,682.40 in quarterly payments for the year 2017. (Note that JBRC paid the tax after receiving our letter.)
 - A monetary breach of failure to pay the Association \$6,496.46 for solid waste disposal for the year of 2017, in quarterly payments.
 - Failure to provide remote fire and burglar alarm monitoring to the property as required by the lease.
 - Failure to repair items presented in the Inspection Report, some of which were caused by hurricane Irma. JBRC was given 15 days to cure or the Association will make the necessary repairs and bill JBRC for costs as additional rent under the lease.
 - Failure to hire an exterminator to remove and protect against rats, bugs and other pests.
 - Continued failure to open the Restaurant beyond the required October 1st date.
- On November 20, 2017 the Association's D&O Insurance attorney, Mark M. Heinich, who is defending us in JBRC's 10/26 Counterclaim, responded to JBRC with a Motion to Dismiss. The document says that the Counterclaim fails to state a cause of action for:
 - Civil Conspiracy, in that it fails to allege a wrongful act that the conspirators allegedly conspired to undertake.

- Tortious Interference with Advantageous Business Relationship.
- Breach of Fiduciary Duty. The Counterclaim does not allege what created the fiduciary duties alleged or that the Association voluntarily undertook the fiduciary duties, which are essential to the cause of action asserted.
- Breach of Covenant of Good Faith and Fair Dealing, which utilizes the same alleged facts as the breach of Fiduciary Duty claim.

In addition, the letter says that, because of the above, the Counterclaim must be dismissed against the Association and Board Members, and attorney's fees and costs should be awarded.

- The litigation will ultimately be settled with one of three possible outcomes: 1) JBRC retains the Master Lease and obtains new restaurant management, 2) Frank Gerardi, holder of JBRC's promissory notes, obtains possession of the Master lease and works with the Association to reopen the restaurant, or 3) the Association obtains the Master lease and obtains restaurant tenants. The timing regarding the litigation end date is uncertain.

Hurricane Irma Damage:

- The Association sustained approximately \$52,000 worth of damage from Hurricane Irma, consisting of the following:
 - \$10,840 - Debris collection
 - \$19,914 - Patio frame & screen replacements
 - \$11,951 - Damage to elevators B East, C East & A West
 - \$2,400 - Replace roof shingles on D West & F West
 - \$2,300 - Parking lot replacement lights
 - \$1,200 - Disposal of tree stumps at C West & F West
 - \$1,125 - Damage to the South end of C West building due to fallen tree
 - \$740 - Irrigation line repair
 - \$700 - Replace East pool pavilion fans
 - \$200 - Repair damage to air-conditioning compressor fences
- Unfortunately, our wind damage insurance policy has a 3% hurricane deductible which is based on the insured amount. For example, a West building which is insured

for approximately \$4 million would have a \$120,000 deductible. This means that none of our hurricane damage is covered by our insurance policy.

- Most of the debris removal and repair costs will be charged to the community common accounts or the individual association/building. However, the patio frame and screen replacements will be covered by reserves.

Comcast Contract:

- A new Comcast cable contract including both TV and Internet services was approved at the August 4 board meeting. The contract included:
 - ✓ Property-wide home run rewiring (from the wiring closets to the units.)
 - ✓ Upgrading of service and equipment to HD Digital Starter, including two X1 boxes with voice remote, one of which is an Any-room Digital Voice Recorder (DVR), and one HD Digital Adapter with remote.
 - ✓ Installing the X1 platform, Comcast's most advanced system available.
 - ✓ Providing Performance Level High-speed Internet, with Wireless Gateway Modem.
 - ✓ Cutting the annual escalation cost from 5% to 4% for all services over the life of the contract.
 - ✓ Free Home Health Check, and one-time install of the X1 system in each unit.
 - ✓ Overall discount of 65% off retail rate for equipment & service, TV, and Internet.
 - ✓ A one-time credit of \$17,950 applied to the first quarter billing.
- Monthly cost for the new service is approximately \$45.54 (including broadcast fee and tax) per unit for cable TV, and \$26.22 per unit (including tax) for Internet. These costs are included in the new 2018 quarterly maintenance fees.
- We are expecting building rewiring to be completed by March 1 of next year and the additional equipment and services to be available then. This added service, once initiated, will eliminate individual owner's need to purchase Internet services.

Fire Sprinkler Lines:

- The aging of the Association's infrastructure is beginning to show up in our high-pressure fire sprinkler lines. Pumps within the Association's pumphouse and East C Building pump room increase the town water supply to 160 pounds per square inch

and feed sprinklers and fire hose connectors at the Restaurant, West buildings and East buildings. The West has attic sprinklers, and East A, B and C buildings have sprinklers within the individual units.

- We've recently had our fourth major problem with these fire sprinkler lines. The lines are corroding and developing leaks, some of which are under our parking lots and buildings.
- Repair of recent leaks under the West B and West E buildings have cost \$5,225 and \$5,250 respectively. Other leaks have occurred outside the restaurant and most recently at the West F parking lot.
- Our current approach is to patch leaks as they occur. However, at some point we may need to invest in major water line replacements.

East Elevators:

- The East A Building elevator was taken out of service on May 22nd for major modernization by Otis Elevator Company. The project, which cost approximately \$95,500, included replacement of machine room equipment, door equipment, hoist way equipment, and car operating panel and fixtures. Work was completed, and the elevator was restored to service in mid-July.
- We have received proposals from Otis for modernizing the remaining three East elevators. The prices, excluding electrical and alarm work, are \$78,044 for East B and East C and \$66,580 for East D.
- A second proposal for modernizing the East B elevator was received from Thyssenkrupp Elevator Corporation. Their price was \$54,731.
- Although our current 10-year maintenance contract with Otis Elevator says, "you will not allow others to make alterations, additions, adjustments, or repairs to the equipment", we felt compelled by Florida statutes to seek a competitive bid.
- According to our attorney, we must factor in the cost of breaking the Otis contract, and based on this determine whether to continue with Otis or switch to Thyssenkrupp.

Holiday Lighting:

- Earlier this year a decision was made to purchase our holiday lights and leave them up all year.

- Previously, we would spend approximately \$7,000 each year to have the lights taken down in the spring and reinstalled in the fall.
- In October we signed a contract with Randy's Holiday Lighting to have any nonoperational lights on the property repaired or replaced. Costs include a \$95 service call, \$25 per set of LED mini lights, \$2 per bulb for C-7 LED lights, \$2 per foot for C-7 stringers, and \$10 per set for repairs to any lights.
- The repairs were completed on November 27th, and based on the total cost (\$1,038), this new approach appears to be cost-effective.

Bocce Ball Court Update:

- On June 26 we received approval for our bocce ball court from the Town of Jupiter's Department of Planning and Zoning.
- Since then we have completed all necessary steps including: relocating the court 15 feet to the east (adjacent to Palm Avenue), submitting an acceptable landscaping plan, providing a response letter addressing each condition of approval, and submitting an engineering building permit for the proposed sidewalk around the court.
- The contractor, Complete Repairs, Inc., expects to have an approved building permit and begin work on December 4th. This will be a welcome completion for those who have waited for over a year for the new bocce ball court.

Noise Control:

- The Association has had several recent complaints regarding noise from adjacent units. Rule #3 of the Association's Rules and Regulations addresses this.
- Following is an excerpt from this document, which can be read in its entirety from the "Rules" page of the Association's website.
 - No resident shall make or permit any disturbing noises that interferes with the rights, comforts or conveniences of other residents.
 - No resident shall play any musical instrument nor operate any sound equipment in their unit in such a manner as to disturb or annoy other residents.
 - Minimum volumes of all sounds and sound producing equipment shall be enforced between the hours of 10:30 P.M. and 8:00 A.M. All unnecessary noises between these hours should be avoided.

- Carpentry, carpet laying, picture hanging or any trade (or do-it-yourself) work involving any noise must be done between the hours of 8:00 A.M. and 6:00 P.M. weekdays ONLY.

Occupancy of Units by Non-owners:

- A Guest/Lease Registration Form is required for the leasing and non-owner occupancy of any Jupiter Bay Condominium unit, and the Form must be submitted to the Association Office prior to a guest's/renter's occupancy of the unit.
- The Association must always know who is living in our units (unless staying with the owner or an immediate family member of the owner) regardless of whether the occupancy is through a rental agent or by the owner directly, and regardless of whether the non-owner has a vehicle requiring a parking pass.
- Renters occupying a Unit without a valid Registration Form and Parking Pass are considered "illegal occupants", and if they have a vehicle, it is subject to towing.
- For further information on the leasing of our units, please refer to the "Leasing" page of the Association's website and Rules #28 and #29, which can be viewed from the "Rules" page of the website.

**We hope that you have had a great Thanksgiving,
and we wish you a Merry Christmas.
Please call the Association Office at (561) 746-5857
with any comments or questions**