

## **Minutes for February 24, 2018 Sand Dollar III Board Meeting**

Location: Recreation Room, 8050 A1A South, St. Augustine, FL

The meeting was called to order by President Joshua Herbstman. A quorum was established with Board members Bob Reed, Larry Ridley and John Hrencecin.

The Community Association Manager (CAM) Jim Haga and Judy Alligood confirmed that the association was in compliance of all requirements.

### **President's Report – Josh Herbstman**

The President Called this Special Board Meeting to begin a discussion of a “2020 Modernization Proposal” for SD III”

The “Proposal,” which will be attached as a matter of record to this meeting’s minutes, aims to address multiple issues regarding water intrusion, storm damage mitigation, and other safety measures relating to the building as a whole.

Today’s Special Meeting is to begin a discussion of this proposal.

### **Comments from Judy Alligood, Coastal Realty-**

Judy Alligood gave a brief presentation of the legalities concerning FL Condo laws and how they would apply to certain measures should they be approved. Changes to the structure of the building, such as floor to ceiling windows or window profiles, would require a 75% homeowner approval. Changes such as mandating water heater change-outs, requiring hurricane shutters, A/C shut-off valves, or electric box replacement are Board-approved decisions only.

Judy also suggested we mandate hurricane shutters as well as the measures regarding the hot water heaters, A/C valves, and bringing all units’ electric boxes up to current code.

### **General Discussion & Owners Comments-**

For approximately two hours, the Board and those owners gathered discussed various issues regarding windows and hurricane shutters. This was only a beginning discussion of this proposal, and the owner feedback and Board deliberation will continue for the next several months.

*Josh Herbstman called for a motion to adjourn the meeting at 3:30pm, seconded by Larry Ridley and unanimously approved.*

# Sand Dollar III “2020”

## A Building Modernization Proposal

### I. Introduction

Built in 1982, Sand Dollar III has served as our shared community for some 36 years now. To be sure, this building has seen many changes in the past four decades, each board addressing the challenges it faced at the time. While we have successfully handled varied problems over the years, the challenge of managing water intrusion has plagued SD III. In nearly every major storm, our building finds itself facing water intrusion. These storms, be they tropical or nor’easter in nature, regularly cause significant damage, costly repair, and inflict an emotional toll on affected homeowners. Units often become uninhabitable for weeks at a time. Our property manager, Jim Haga, is regularly performing emergency water mitigation right after a storm, with dozens of units requiring emergency attention all at once. He is often left in a position wherein he cannot provide satisfactory answers to water damage issues.

Such damages can have our homeowners at risk of insurance litigation with their fellow neighbors. Water from one unit may cause damage into another. In the past, we have even dealt with an owner who, when informed of a leaking window causing damage to their neighbor, chose to undertake no remedy until threat of litigation. And when owners do undertake repair, the quality of the installation and indeed, the product, is often dubious.

In every major storm it seems, the same stories repeat themselves. Why does this cycle happen?

- The building covenants of SD III allows for 48 homeowners to have their personal decisions for sliding glass doors and windows. Many owners do not have windows and/or doors up to the latest 2017 (6<sup>th</sup> Edition) FL Building Code, with some units having original 1982 windows and/or sliding glass doors. The products have limited lifespans, and have been found to leak frequently.
- Even when units have “up to code windows and/or sliding glass doors”, these products are often not installed properly. Owners have developed a false sense of security, as *“up to code windows and doors should mean their unit is watertight,”* so the thinking goes. Experience, along with our recent professional water mitigation report, have shown that lack of regular maintenance, (replacement of missing or damaged fasteners, caulking), as well as installation problems regularly result in water penetration.
- The installation of storm shutters, not all of which are hurricane shutters, has left many unit owners under a false sense of protection. *“Close the shutters, and my unit is sealed from the outside.”* These shutters are not waterproof instruments, and units regularly leak even when shutters are closed. Several shutters are plastic, and therefore do not meet either of the last two versions of Florida’s Building Code. Hurricane shutters are not mandatory, and 17 of our 48 units do not have any storm protection.

- Finally, the governing documents of SD III place the decisions for windows, sliding glass doors, and storm shutters solely in the hands of individual homeowners. Maintenance of these systems is left entirely up to each unit. Experience has shown that some owners have (willingly or unknowingly) undertaken installation of products by vendors who chose not to pull the requisite permits required by law. And once products are installed, however old or outdated they are, some owners chose to claim “grandfathered status” to any suggestion of replacement.

In the opinion of this current Board of Directors, this current formula is counterproductive to the wellbeing of our community. It runs against our own individual financial interests, collective financial interest, and the cycle of repeated damage places unnecessary burdens on Jim Haga and the Board. This broken record needs to come off of the turntable. That said, the proposals outlined below is our attempt to present reasonable, thought out, 21st-Century solutions to modernize and protect our building.

## **II. Basic Facts We Can All Agree On...**

1. The building, as its rules and regulations currently stand, has experienced the unintended consequences of units having ongoing water intrusion problems. These problems can and have affected particular units and often their neighbors.
2. A multitude of units in SD III have windows, sliding glass doors, shutters, and/or a combination of which that do not meet current Florida Building Codes. The association, through has allowed a liberal “grandfathering” of these items to remain installed.
3. Other systems that can cause water problems, such as water heaters and A/C units, have also been grandfathered in. In several instances, items well-beyond their safe usage, (such as old water heaters), remain in SD III units, creating a potential hazard for unit owners and their neighbors.
4. In our recent Hardy Group 48-Unit professional survey, “poor-level” moisture readings were found on over 90% of the windows in our units. Over 66% of our units had “poor-level” sliding door moisture readings. Caulking was found to be deficient in over 80% of the sliding glass doors, and deficient in over 90% of the windows. 66% of the glass sliding doors in the units were found to be “poor” in their current state.
5. Despite the proactive measures we are taking to address future budgetary needs and shortfalls, such measures in no way address the water mitigation problems we need to deal with as a community. Our budget is not designed for multiple storms as it stands now. As difficult as it may be for us individually (with respect to upgrading shutters, windows, etc.), getting our units better prepared for future storm challenges is an expense that is a separate conversation from the regular challenges we face in maintaining SD III. Furthermore, there should be no false dichotomy of either properly maintaining this building OR making sure all units have up to code, properly installed windows, doors, etc., etc.

### **III. Project “2020”**

As we approach the year 2020, it is well worth exploring a modernization program for Sand Dollar III. While “20/20” foresight is difficult to achieve, we can use our collective wisdom of past experience, (our “20/20 hindsight if you will), to draft a modernized set of rules and regulations. In addressing our ongoing water mitigation issues, as well as other critical systems, the Board of Directors is hoping, through open discussion and deliberation, to achieve some common-sense consensus.

With that said, we are considering several new policies to ensure that our building enters the future prepared for the challenges ahead.

*\*Please Note that nothing will be voted on by this Board of Directors without a robust discussion involving every single owner that wishes to participate. Wherein the Board can lawfully act with a simple majority vote, it will consider all expressed opinions before any regulations are changed. For proposals that require a 75% approval from unit owners, the same due diligence and feedback will be pursued. All owners who wish to speak will be heard, and are encouraged to do so.*

#### **I. Hurricane Shutters.**

The Association will adopt a change to governing regulations requiring the installation and maintenance of hurricane shutters. Such shutters would be mandatory for all units for East-side exposures only, and would need to meet current Florida building code.

The implementation of this rule would require an inspection, coordinated by Jim Haga and done through a qualified third-party, of every existing shutter to ensure that current Florida Building Codes are met. Any shutter system not meeting the current building code will need to be upgraded as such.

Any installation of a new shutter systems must meet SD III’s installation protocols, and such installation must be done by a licensed contractor.

Furthermore, the operation of all shutters is ultimately at the discretion of SD III’s management. As such, to protect units from water intrusion, management may mandate shutters be closed in the event of a major storm. Management can and will close shutters when owners are not available or out of town. Any renters or guests of SD III owners must understand that shutters are to be closed in the event of any major storm activity.

Based on Florida law, the SD III Board would approve the standards and specifications of the hurricane shutters. A 75% ownership approval is required to mandate shutters.

## II. East-exposure Windows

The Board is considering a change to governing policies requiring the installation and maintenance of windows on the East-side of SD III. Such changes would be mandatory for all units as outlined:

- A) All units must have a window installation that meets the current FL Building Code. Given the reality of “windows being only as efficient and water tight as their installation process,” SD III will adopt a specified set of installation parameters in its rules and regulations. These specs must be adhered to for all future installations, with Jim Haga (or a Board-designated third-party) on sight to supervise key installation checkpoints. Under no circumstances will the installation of windows be allowed without the requisite building permits. Units with windows that are up to current building code must be inspected by management to ensure proper installation. Owners have until January 1 2020, to comply with their East-side window replacements.
- B) In an effort to accommodate safety, aesthetics, and the reality of modern window designs, the following two choices of windows will be allowed for the East-side of SD III units.

Choice 1: The traditional “six panes” look currently part of our governing documents.



Choice 2: A simpler “three panes” installation. No horizontal mullion would be required for owners wanting a cleaner, more streamlined appearance. (Louvered, casement windows are shown for illustration purposes here)



Based on Florida law, the Board may approve **Choice 1** with a simple majority vote. **Choice 2** would require approval from 75% of the ownership of record of SD III, as it is a material alteration change

### **III. Sliding glass doors**

The Board will adopt a change to governing policies requiring the installation of sliding glass doors in all units. If the regulations are in place mandating all units to have working, up to code hurricane shutters, the requirement for the replacement of below code sliding glass doors will be waived, as this is allowed by St. Johns County Code. Units may have “grandfathered” sliding glass doors in areas that properly installed current code compliant shutters cover.

All units will be required to upgrade the track that their sliding glass doors operate within. The upgrade will be to the current building code’s newer height requirements. A retrofit may be done to existing sliders.

When sliding glass doors are replaced in any unit, new installation will have to meet SD III’s documented installation protocols, as well any and all current Florida Building Codes.

Based on Florida law, the SD III Board may approve such a proposal with a simple majority, providing there is no change in design which would create a material alteration requiring a 75% ownership approval.

### **IV. Water Heaters**

The Board will adopt a change to governing policies regarding the operation of water heaters in individual condominiums. Traditional tank water heaters carry with them a potential risk of leak, a scenario that can cause massive water damage to multiple units at a time. As such, outdated and/or damaged water heaters will no longer be permitted in any SD III units. Based on the manufacturer’s life span of the water heater, unit owners will be informed of when they need to upgrade their water heaters. Water heaters will be inspected on a quarterly basis, and owners will be notified in a timely fashion when appropriate action is needed. Owners will have until July 1, 2018 to comply with this regulation. Note: The typical life span of a hot water heater in our environment is 7-10 years.

Owners who opt to install a “tankless system” are not subject to this regulation.

Based on Florida law, the SD III Board may approve such a proposal with a simple majority.

## **V. A/C shutoff valves and drainage pipes**

The Board will adopt a change to governing policies regarding the operation of the individual A/C units within SD III. A/C units can and have caused water damage when proper shutoff switches and/or drainage lines are not maintained. As such, all units must have an A/C water “shutoff valve” integrated into their interior air handler. Furthermore, water drainage pipes must regularly be maintained as to drain properly, a practice most A/C service maintenance contracts do in fact provide. Owners will have until July 1, 2018 to comply with this regulation.

Based on Florida law, the SD III Board may approve such a proposal with a simple majority.

## **VI. Electrical Panel Boxes (the Circuit Breakers located in the Landry Rooms)**

The Board will adopt a change to governing policies regarding the installation & operation of the electrical panels located in the laundry rooms of SD III units. Many units have original 1982 code electrical boxes, boxers that have been shown to be faulty and potentially dangerous. In an effort to protect units from fire and individuals from potentially catastrophic injury, all units must have electrical boxes (and circuit breakers) that meet current Florida Building Codes. Electrical boxes will be inspected in each unit, and owners will have until January 1, 2020 to comply with this regulation, unless required sooner due to notice of electrical issues or faulty equipment.

Based on Florida law, the SD III Board may approve such a proposal with a simple majority.

## **Conclusion**

The Board of Directors recognizes that this document contains much to digest and reflect upon. We are mindful that budgets are tight for many of us, and that changes to policies and procedures must be undertaken with great care and consideration for all 48 individual units. That said, we believe that the above proposals reflect a serious, common sense approach to modernizing areas of our building that are critically important to our collective safety and well-being. We look forward to discussing this agenda with you, and wish you a happy, healthy 2018.

## **Appendix B**

## **Relevant Florida Law Pertaining to These Proposals**

FS 718.113(5) Each board of administration of a residential condominium shall adopt hurricane shutter specifications for each building within each condominium operated by the association which shall include color, style, and other factors deemed relevant by the board. All specifications adopted by the board must comply with the applicable building code.

(a) The board may, subject to s. 718.3026 and the approval of a majority of voting interests of the residential condominium, install hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection that comply with or exceed the applicable building code. However, a vote of the owners is not required if the maintenance, repair, and replacement of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection are the responsibility of the association pursuant to the declaration of condominium. If hurricane protection or laminated glass or window film architecturally designed to function as hurricane protection that complies with or exceeds the current applicable building code has been previously installed, the board may not install hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection except upon approval by a majority vote of the voting interests.

(b) The association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection authorized by this subsection if such property is the responsibility of the association pursuant to the declaration of condominium. If the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection are the responsibility of the unit owners pursuant to the declaration of condominium, the maintenance, repair, and replacement of such items are the responsibility of the unit owner.

(c) The board may operate shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection installed pursuant to this subsection without permission of the unit owners only if such operation is necessary to preserve and protect the condominium property and association property. The installation, replacement, operation, repair, and maintenance of such shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection in accordance with the procedures set forth in this paragraph are not a material alteration to the common elements or association property within the meaning of this section.

(d) Notwithstanding any other provision in the residential condominium documents, if approval is required by the documents, a board may not refuse to approve the installation or replacement of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by a unit owner conforming to the specifications adopted by the board.