

**LAKE MISSION VIEJO ASSOCIATION  
BOARD OF DIRECTORS SPECIAL MEETING  
JUNE 01, 2011**

**MEETING:** Upon notice duly given and received, this meeting of the Lake Mission Viejo Association Board of Directors was held at the lake offices. The meeting was called to order by Fred Mellenbruch at 9:02 AM.

**Board Members Present:**

Fred Mellenbruch, President  
Diane Lincoln, Vice President  
Alan Virdinis, Vice President  
Sid Wittenberg, Secretary  
Dale Tarkington, Treasure (Participated by Telephone)

**Staff Members Present:**

Kevin Frabotta, General Manager  
Dave Kerr, Administrative Manager  
Bryant Watilo, Operations Manager  
Janice Chandler, Human Resources Manager

**Others Present:** Jane Chadburn, Glenda Virdinis and Gerri Milikan

**Minutes:** None

**Old Business:** Clubhouse Bridal Room Contract

Fred Mellenbruch stated that the first item on the agenda of the special meeting is the Bridal Room Contract. Diane Lincoln made a motion to award the contract for the Bridal Room addition to Babuscio Construction (as the competing bid contractor submitted a letter removing his bid from the process) for an amount of \$52,547 with expense to come from account 2045 Capital expansion. There being no second to the motion, Fred Mellenbruch stated that, the motion failed. Dale Tarkington made a motion to suspend this project for the time being. Second, Alan Virdinis. Diane Lincoln asked Mr. Tarkington what his thoughts were. Mr. Tarkington stated that he was not ready to approve \$52,547 to this contractor for this project, "This project is overpriced and given the other issues we have before us, I am not prepared to spend the money". Alan Virdinis stated that he felt the same way and would like to step back and re look at how we handle these projects. Sid Wittenberg asked about the consequences of not taking action. General Manager Kevin Frabotta stated that we have the Clubhouse blocked out from rentals for the next 2 weeks for construction. Sid Wittenberg asked what inconvenience the brides faced without use of a bride room. Mr. Frabotta stated that brides used the Clubhouse office occasionally for a dressing room, as well as the public restrooms attached to the building. Ms. Lincoln stated that she did not think we needed to stop the project at this time. Mr. Wittenberg stated that he felt there was an alternative, which is to ask the contractor to reduce his bid by \$5,000 to obtain the bid. Mr. Frabotta stated that Babuscio Construction had been approached regarding reduction of his bid price and that he refused to reduce his bid at that time. Mr. Wittenberg asked Mr. Tarkington if he would consider an amendment to his motion. Mr. Tarkington stated that he was flexible willing to listen to the Board. He stated, "Yes I am willing to listen to an amendment". Mr. Virdinis stated that due to the fact that two of the contractors failed to follow through with their bids, he is getting a feel that jobs at Lake Mission Viejo are given to the same contractors who always seem to get the jobs. He went on to say that he would like to review the entire bid process before approving any more contracts. Mr. Tarkington asked to call for a vote on the original motion before considering another motion. Mr. Tarkington restated his motion to suspend this

project for the time being and until we have the appropriate reviews in place. Second, Alan Virdinis. Vote Carried 4-1-0.

Sid Wittenberg made a motion to offer the contract to Babuscio Construction including a 10% reduction in the current bid price. Second, Diane Lincoln. Fred Mellenbruch stated that it would be in order to negotiate this contract as there was only one bid. Alan Virdinis stated that we still don't have "Fail Safes" in place. Dale Tarkington stated that we don't have an appropriate mechanism for potential change orders to approved contracts. Ms. Lincoln asked General Manager Kevin Frabotta to review the recommended process going forward for managing approved contracts. Mr. Frabotta stated that he recommends requiring any general contractor or project manager to meet weekly to review progress, costs and contracts. Mr. Frabotta stated that until we have contracts to present to the Board, we would not present any projects for approval of funds to the Board. Going forward, presenting a concept for project would be phase 1 and staff would return to the Board for a second time with signed contract proposals prior to requesting funding. A general discussion took place regarding past projects with overages, where contractors have provided information to the Board for additional funding. Ms. Lincoln stated that we have had controls in place during past projects to approve additional funding. Mr. Tarkington stated the need to be more specific regarding contracts in the future. Ms. Lincoln stated that the "Fail Safes" in regard to the Floating Platform project have not occurred, but other projects have been monitored effectively. Bryant Watilo referenced several past projects where proper monitoring has occurred and if contingencies have been required, the Board was consulted before moving forward. Sid Wittenberg stated that he has been concerned in the past that projects have not been fully investigated and perhaps we should use the Bride Room project as a model project to test our approval process with the 10% reduction in the bid price. A general discussion took place regarding the previous clubhouse construction project. Mr. Tarkington requested a vote on the motion to approve the bid proposal from Babuscio Construction conditional upon a 10% reduction in price from the contractor. Vote Carried 3-2

#### New Business: Floating Platform

Fred Mellenbruch asked Kevin Frabotta to discuss the materials provided to the Board regarding the costs of the Floating Platform project. Mr. Frabotta stated that the project was a unique job that provided several challenges which required changes to the original bid. The Concourse/Breezeway was an easier project to manage due to standard types of construction performed by sub contractors. Mr. Frabotta gave several examples of the unique aspects of the Floating Platform project with one being the original plan called for 80 floats and we ended up using over 200 floats to meet specifications required. The key going forward is that we deal with changes in a more efficient manner. Mr. Tarkington stated that he would like to bifurcate this issue into two areas. One being to solve the current overage, and number two being how do we proceed with a going forward approach. Mr. Tarkington stated that he would like to get our legal consultant involved. Fred Mellenbruch stated that the Board was going to Executive Session. Secondly he stated that he would like to have a full review of all the charges from all the contractors and change orders involved in the project so that the Board could satisfy themselves that all of the expenses are legitimate.

Mr. Tarkington asked that any expenditure's over the \$400,000 be held until the full review can be held. The Board discussed holding back 15% of all contracts until the final project has been approved. Mr. Tarkington asked if this meant holding back 15% of the approximate \$600,000 of expense. Mr. Mellenbruch stated "Yes". Mr. Tarkington stated that he was not prepared to do that. Mr. Wittenberg asked for a report including every expenditure regarding the project and who authorized those expenditures. Ms. Lincoln asked for a timeline of all of the expenditures. Mr. Frabotta stated that some of the invoices have been paid. Mr. Tarkington stated that he had signed large invoices but understood that all of these invoices were within the Board approved \$400,000 for the project. Ms. Lincoln stated that she also had signed some large invoices but was under the impression that they were within the approved project funding. Alan Virdinis asked about contracts from each individual contractor. Mr. Frabotta stated that the only contract he had signed was from Atlas Docks in the amount of \$263,000. Ms. Jane Chadburn stated that we are 3 weeks away from our first show and the electrical feed has been

moved to the platform, we are close to finishing and we cannot stop the project or the concert season will be in jeopardy. Ms. Lincoln stated that her understanding was that we have received all items that have been paid for, also all of the paid invoices for the project have been from completed work and our representative had authorized all of this work to be completed. She went on to state that we have a responsibility to pay for work performed and materials delivered. Did we get what we have been charged for? Yes we have been received what we have paid for. Mr. Tarkington stated that there is usually room for negotiation with contractors. Mr. Wittenberg stated that if we did withhold expenditures, the General Manager has the ability to go to the contractors tell them that expenditures were not approved by the Board, we are in a tremendous bind and ask them if they can negotiate their price down. Mr. Mellenbruch stated that he agreed to authorize the General Manager to ask the contractors to negotiate a 10 to 15% retention and that gives us some negotiating power. Ms. Lincoln made a motion to allocate \$154,000 out of Reserve Category, Component Renovation, \$20,000 from Landscape Renovation and \$35,000 from Reserve Category, Boat Docks and we authorize our GM to negotiate a 15% hold back of and any reduction of the contracts that he can negotiate. Second, Sid Wittenberg. Vote Carried 4-0-1 (Dale Tarkington abstained).

Diane Lincoln made a motion that staff immediately give the Board a complete breakdown of original costs, all the overages, the timeline of those overages came to light, what they constituted, the basis of making the decision of moving forward on this, who authorized these expenditures and when management became aware of this and have the report back to the Board ASAP. Second, Sid Wittenberg. Vote Carried 5-0-0.

Jane Chadburn stated that the stage is scheduled to be put in place for the summer season on June 14<sup>th</sup> and we need to make sure that the floating platform is finished prior to the stage being erected.

**Adjournment:** There being no further business, this meeting of the Lake Mission Viejo Association was adjourned at 9:56 AM.

**Attest:** \_\_\_\_\_, Secretary