

MUTUAL HEIGHTS BODY CORPORATE
SS 326/2005

MINUTES OF THE FIRST ANNUAL GENERAL MEETING OF MEMBERS OF THE
MUTUAL HEIGHTS BODY CORPORATE HELD ON THURSDAY 15TH JUNE 2006
AT 18:00 IN THE FRESCO HALL, 8TH FLOOR, MUTUAL HEIGHTS, 14 DARLING
STREET, CAPE TOWN

PRESENT: One hundred and sixteen members present or
represented by proxy and scheduled in the
attendance register.

Chairman: PAUL RIPPON

IN ATTENDANCE: Charles Keefer (CK) and Clint Riddin (CR)
representing the Managing Agents, Property
Exponents

1. NOTICE

Due notice having been given in respect of both the Annual
General Meeting and special resolutions and a quorum being
present, the meeting was declared duly constituted and
proceeded to business.

2. APOLOGIES

218/219 - Mark Arendse
407 - Iain Louw
517 - Patrick Arnold
603 - Jerry Brown
605 - Wendy Jutzen
714 - Victor Wolkowicz
811 - Dylan Stanton

3. MINUTES OF PREVIOUS MEETING

The minutes of the Inaugural General Meeting held on 30th
August 2005 having been circulated were taken as read and
then unanimously accepted as a true record of that meeting on
proposal of Dion Williamson and seconded by Lynnette Shaw

RESOLVED that the Chairman sign the minutes.

4. APPROVAL OF THE AUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED 28TH FEBRUARY 2006.

4.1 Audited Financial Statements

Clint Riddin addressed the meeting. It was pointed out to the members that this was the first year of review, and that the period covered 8 months to February 2006. He also highlighted the fact that the audit report was qualified. The qualification related to the body corporate being in a deficit at year-end and being treated as a going concern. The trustees had the option of raising a special levy to fund shortfalls and thereby address the solvency of the body corporate. Trustees have chosen rather to address the deficit in the new financial year by way of a 30% levy increase as set out in the budget to be discussed later in the meeting.

The main contributing factor to the deficit was the municipal charges. Members were advised that these charges were based on calculations made on assumptions and values using similar buildings as a model. This was necessary because the Council had yet to bill the body corporate. Accordingly, the amounts provided for may well be different from the eventual amounts. The basis for the calculation was made on the market value of the building, based on the selling prices of the units, discounted to the valuation rates year of 2000. It was important to note that the Council was between 18 months and 2 years behind with billing new developments, and it would be some time before the actual charges would be known.

Members were also advised that the municipal value was used to determine the fixed charge for refuse and sewerage and that in addition to these fixed charges there was a "consumption" fee for both services.

Members were further advised that as the municipal expenses were not being paid, the body corporate had accumulated cash, which was being invested to ensure that interest was being earned (cash on hand at year end stood at R652 681)

A member questioned the debtors' position which reflected outstanding levies of R91 971 at year-end. Clint

Riddin advised that that was the position at year end but it had since improved. Presently arrears amounted to approximately R30 000 the bulk of which was owed by one member who was disputing the quantum. This was presently being resolved. He also mentioned that all delinquent payers were charged interest and collection costs.

On the income statement Clint Riddin advised that the reference to equipment under expenses related to the sky bridge lease. He also advised members that even though the body corporate had operated at a deficit, taxes were payable. Bodies corporate are only taxed on income other than levies. In this instance it related to interest earned on money held in the bank. A small deduction formula taking audit fees, accounting fees and bank charges was allowed against this income and the net income taxed at 29%. This was applicable even when a deficit occurred.

The interest charge was queried. It was explained that the amount had been raised by Council and therefore had to be accounted for. He explained that this was part of the billing debacle with the Council, and would not be paid. This amount would be reversed when the account was finally resolved with the authorities.

RESOLVED unanimously on the proposal of the Chairman to approve the estimates of income and expenditure without amendment.

5. APPOINTMENT OF THE AUDITOR

Clint Riddin outlined a recommendation to change the current Auditor. After some discussion and questions from the floor it was agreed to accept the recommendation.

RESOLVED unanimously that Cecil Kilpin be and are hereby appointed auditors for the ensuing year and that their remuneration be fixed as provided for in the budget.

6. TRUSTEES ANNUAL REPORT

The Chairman Paul Rippon then tabled the annual report of Trustees. He advised that he had covered most matters in the

written report that he felt of importance and interest which dealt with the past, but he now wanted to outline some things for the future :

- 6.1 He had in mind the formation of a grouping of other Chairmen of Bodies Corporate, the collective power of which would be considerable. The purpose would be to address matters of common concern to owners of sectional titles schemes. Such concerns would include rates and taxes. It could provide a resource of information to add weight to submissions to the legislature when considering further laws affecting Sectional Titles ownership.
- 6.2 The non opening of the gym was obviously a matter which concerned owners. He concluded that the continued delay and broken promises were due to policy rather than inertia. The Trustees were considering taking legal advice with a view to a class action against the developer.
- 6.3 The proposal that the 200 parking bays owned by Mutual Heights sectional title owners at the Adderley should subsidize the exclusive use areas in the residential part of that development whilst barring parking bay owners from using the amenities had probably been abandoned. He had drafted rules that would require future trustees to fix the levies on the owners of units in each of the different use areas of the complex based on the actual cost of the common areas in each category of the building. In addition the cost of the common access area would be born equally by all sectional owners throughout the complex. The Adderley Trustees had approved the amendments to the conduct and management rules that morning. This was a big step forward. The Special General Meeting would be resumed as soon as the Trustees could be sure of assembling the requisite majorities ready to assent to the changes.

Discussion then revolved around three primary areas of concern. Firstly that the gym was not operational. Secondly that of the general standards of finish in the common areas of the building and thirdly the status of the Old Mutual Sign. Member wanted to know why the gym was not operational. Owners expressed unhappiness that the snagging in common areas was not complete and in some instance the quality of finishes not of an acceptable standard. Members were also alarmed that no

agreement existed with Old Mutual despite the visibility of their sign without compensation to the body corporate.

Allan Hill, a Trustee, addressed members on the matter of the sign. He outlined the concerted effort by Trustees to obtain agreement from Old Mutual. He stressed the time and energy put into the effort by Trustees. Regrettably it was not to be in the end. Trustees had also considered having the sign removed but the costs were prohibitive. Consideration had also been given to covering the sign whilst the matter was being negotiated. This, however, was impractical.

Vusi Nondo of Old Mutual Properties then offered to respond to those points.

- Gym
Mr. Nondo agreed that a Gym was part of the concept for Mutual Heights and conceded it was a long time in coming. He apologised for this. He then outlined the basis on which the gym owners were prepared to offer members use thereof. He stressed the cost would cover only actual operating costs and would not include any profit element at all. Such cost would include the levy applicable to the area, depreciation on the cost of equipment in the Gym, cleaning, electrical and water consumption costs. The estimate that they had arrived at equated to a cost of R50.00 pm for each of the residential sectors in the scheme.

He confirmed that no charge would be levied on the commercial sections (9 only) and that owners of the commercial sections would not be allowed to use the gym.

- Signage
In responding to debate on this matter, Vusi Nondo assured owners that their trustees had been extremely energetic and very vocal on their behalf during negotiations to secure a lease. Old Mutual, however, was not able to accommodate a rental agreement with the Body Corporate. He re-iterated for the record that at no time had Old Mutual Properties attempted to hinder or prevent the body corporate in securing an alternative signage lease and at no time had any claim to ownership of the existing sign been made.

- Public area snagging
Vusi said that the developers were addressing the snagging items extensively. They were on site undertaking work and would complete before they left.

The Chairman thanked Vusi for responding and indicated to members that he would like to move on to the next agenda item. There was a vote of thanks to the chair from the floor, endorsed by hearty applause.

7. PROPOSED INCOME AND EXPENDITURE BUDGET FOR THE YEAR 1st MARCH 2006 TO 28TH FEBRUARY 2007.

Lynnette Shaw, a Trustee, tabled the proposed income and expenditure budget for the year to end 28th February 2007. She highlighted portions of the budget where the largest increases had occurred. Clint Riddin then added detail to these and other expense items. He echoed the concerns raised by Lynnette Shaw and repeated his earlier comments on the Municipal accounts. These charges were a big unknown and any changes to these costs would have significant impact on the finances of the Body Corporate. He advised members that the budget was prepared using a combination of zero based budgeting and historical cost comparisons. He closed off by adding that part of the reason for the unusually high increase was that the amounts required to run the scheme for a full year were actually having to be recovered over a nine month period.

RESOLVED unanimously to adopt the budget as proposed without amendment.

8. SCHEDULE OF INSURANCE REPLACEMENT VALUES

Charles Keefer tabled the schedule of insurance values and referred members to the table included in the Annual General Meeting pack. He elaborated on the basis of the apportionment of total value of R160 000 000.00 amongst the 178 sections in this scheme. It was pointed out that the total sums insured of each section was based on the participation quota of each unit and therefore included for cover of each section and an undivided share of common area. Additional information on the insurance policy in place included:

- The policy was renewable annually on the 1st July, but premiums were paid monthly.

- The policy with Corporate Sure was referenced CSR – 009084- POL99
- There was public liability cover of R20 000 000.00
- There was trustees indemnity cover of R1 000 000.00
- Excess applicable:
 - fire claims – Nil
 - Other claims – R500.00
 - Geyser claims – R500.00

After completing the review the Managing Agent asked if there were any questions. There were none. The Chairman then moved that the schedule as present be accepted and was then unanimously approved.

RESOLVED to adopt without amendment the schedule of insurance replacement costs as tabled.

9. DETERMINATION OF THE NUMBER OF TRUSTEES

The Chairman advised members that of the ten current trustees seven had offered themselves for re-election. There was then discussion as to how many trustees should be appointed following which one member proposed nine trustees. This proposal was seconded and the meeting then unanimously agreed

RESOLVED that the number of trustees be set at nine members for the ensuing year.

10. ELECTION OF TRUSTEES FOR THE FINANCIAL YEAR 2006/2007

The managing agent announced the names of nine nominations received. They were:

AMELIA BEATTIE
 PROF. ANDREW BYTHEWAY
 LEON HANS
 ALLAN HILL
 SIMON HUDSON
 TARYN LEWIS
 PAUL RIPPON
 DYLAN STANTON
 DION WILLIAMSON

RESOLVED that the nine members nominated be and are hereby unanimously elected.

11. DOMICILUM CITANDI ET EXECUTANDI OF THE BODY CORPORATE.

The meeting unanimously agreed that the domicilium citandi et excutandi of the Body Corporate remain as that of the Managing Agent, viz:

MUTUAL HEIGHTS BODY CORPORATE
C/o PROPERTY EXPONENTS
MEZZANINE "B"
MUTUAL HEIGHTS
14 DARLING STREET
CAPE TOWN
8001

P.O.BOX 1858
CAPE TOWN
8000

12. DIRECTIONS OR RESTRICTIONS IN TERMS OF SECTION 39 (I) OF THE ACT.

No directions or restrictions were imposed.

13. SPECIAL BUSINESS

13.1 AMENDMENT TO SECTIONAL PLANS

The following Special Resolution for which due notice had been given was tabled :

13.1.1 Whereas the owner of Sections 801 and 813 Mutual Heights, Old Mutual Life Assurance Company (South Africa) Limited has applied to the Body Corporate in terms of Section 24 of the Sectional Titles Act for the approval of the body corporate, authorised by a special Resolution of members, for the submission of a draft sectional plan of extension to the Surveyor General for approval.

13.1.2 And whereas the sectional plan of extension is required to accommodate the as-built extension of sections 801 and 813 into certain common property which was originally a passageway required to service the proposed unit 814.

- 13.1.3 And whereas proposed unit 814 has not been built and is consolidated with and incorporated in section 801.
- 13.1.4 And whereas the aforesaid changes have no detrimental effect on the other members of the body corporate who will suffer no prejudice as a result thereof, the changes will positively affect their participation quotas.

John Lee representing the owners of the affected sections elaborated on the background for the need of the Special Resolution and offered further detail to members to assist with understanding. Some questions from the floor were then answered. There followed several speakers who indicated unhappiness with the proposal given previous experience with the developer. The chairman then put the resolution to the vote whereupon ballot papers were distributed to owners.

Following a count of the votes for and against the Chairman announced the result : **FOR – 40%**
AGAINST – 60%

13.2 AMENDMENT TO CONDUCT RULE 8(b)1

Due notice having been given the next special resolution as set out in the notice and agenda circulated to all owners was tabled.

On behalf of the Trustees the Chairman proposed an amendment to the resolution as circulated. He explained that the amendment would remove ambiguity in the original proposal. He proposed the following new rule :

“No exterior blinds, awnings or other fittings shall be installed or replaced, save with the prior written approval of the trustees. Once approved, the colour of the same shall not be changed and the same shall be maintained in good repair and condition failing which the trustees shall have the right to require their removal or alternatively to attend to the repair thereof at the cost and expense of the owner. Window dressings shall be restricted to blinds or curtains.”

The Trustees also proposed that a footnote be added to the amended clause 8(b)(1) that would state white,

aluminium, wood, timber or bamboo colour was the preference of Trustees.

RESOLVED unanimously to adopt the amended resolution

14. FRONT DOOR OPENING

The chairman outlined background for this agenda item and indicated that Trustees were anxious that members themselves decide what hours the Darling street doors should remain open. He stressed that the proposal was contingent on frameless glass doors/screens being installed in the foyer and that there is to be a security officer at the concierge desk at all times.

Simon Hudson then moved that :

- The Trustees give instructions that the Darling Street doors be normally opened at 6am and shut at midnight, provided that at least one security office shall be visibly present in the front lobby at all times during which the front doors are open, and
- These arrangements shall not come into effect until glass security doors and screens have been installed to isolate each lift lobby from the remainder of the main lobby.

He said that it was a great pity that owner's access into the building through such a magnificent foyer was restricted as is presently the case adding that he believed the new arrangement would provide safer access into the building than through the Parliament Street door

Taryn Lewis then withdrew her opposition to the resolution

Some concern was expressed from the floor that there could be danger of spoiling the magnificence of the foyer by adding glass doors/ screens. Such installation would have to be sensitive to the architecture.

The proposal was then put to a vote which was unanimously accepted.

RESOLVED:

- i. **that trustees give instructions that the Darling Street doors be opened each day of the week at 6am and closed at Midnight provided that at least one**

security officer shall be visibly present in the front lobby at all times during which the front doors are open and ;

- ii. That these arrangements shall not come into effect until frameless glass security doors / screens have been installed to isolate each lift lobby from the remainder of the main lobby.**

15. GENERAL

- 15.1. Disappointment was expressed by the owner of an apartment on the 1st floor regarding the unoccupied banking hall and associated mezzanine areas. It reflected badly on the building and was unsightly when viewed from the passage servicing the 1st floor apartments.
- 15.2. The Chairman then asked members to give consideration to changing the name of the Body Corporate. He reminded members that the name of the building was clearly marked on the Parliament Street façade and read "Mutual Building". The reference to "Mutual Heights" was superfluous. It was no longer the tallest building in Africa. He recommended the name " The Mutual Body Corporate". Although the legal name apparently could not be changed, there was nothing to stop the Body Corporate adopting a more appropriate name by which in time it would be known. Members were asked to give suggestions and offer opinion on the matter. Following some debate on the merits of the idea the meeting was asked to indicate their approval or otherwise to a name change. A vote by show of hands reflected a majority of owners were not in favour of any name change from Mutual Heights.
- 15.3. Professor Bytheway addressed the meeting on the matter of the Mutual Heights web site. He outlined details of a survey that would shortly take place and the reasons therefore. All were asked to take the time to complete the questionnaire as it would assist in making the site useful to all members.
- 15.4. Brian Berkman moved a vote of thanks to the Trustees and Managing Agent for the good work done on behalf of all owners, which was endorsed by the members present.

There being no further business the Chairman thanked all owners for their attendance and contributions. The meeting was then closed at 20:40 and members were invited to join the retiring trustees and the new Trustees for refreshemnts.