

Minutes of the August 21, 2007 meeting of the Commercial Council of LMS 1866, The Electra.

NOTE TO READERS: These minutes are in draft form. Any errors, corrections or omissions will be discussed at the next meeting of council, and noted in those minutes.

Present: John Davies (President), Tony Lum (vice-president), Mark Bentz (treasurer), Raymond Eng (director)

Guests: Peter Morgan and Anna Moldovan (Minutes), Bob Adams (Facilitech Property Management-Electra Property Manager), Howard Burton (Electra Residential Section) and Martha Walsh (owner of the SL 349).

The meeting was called to order by John Davies at 3:09 pm in the Commercial Boardroom.

1. **MOTION** (Davies/Lum): To approve the minutes of the Commercial Council for June 9, 2007. Approved.
2. **MOTION** (Davies/Lum): To approve the minutes of the Commercial Council for Aug 9, 2007.

The motion was not called as there were amendments.

Peter Morgan reported there were several corrections to the minutes of Aug.9, 2007 that had been reported to him:

- “The building’s steam bill was only paid up to April 2007 by Facilitech, and that about \$ 51,000 of the bill was still outstanding as there was insufficient funds in our accounts to fully pay the invoice” corrected to “The building’s steam bill was only paid up to **May** by Facilitech, and that about \$51,000 of the bill was still outstanding as there was insufficient funds on our accounts to fully pay the invoice **and 2% interest was being applied to the outstanding invoices.**”
- “To hire Anna Moldovan as building administrator and accountant for the Electra Commercial section, effective August 16, 2007” corrected to “To hire Anna Moldovan as building administrator and accountant for the Electra Commercial section, **effective September 1, 2007**”.

Anna, the above is incorrect. The correct motion is: To hire Anna Moldovan as building administrator and accountant for the Electra Commercial section, effective August 16, 2007. Approved. The minutes incorrectly said it was September 1.

- The dates in the sentence, “Despite a resolution by Commercial Council at the July 25 meeting that from that date all cheques presented for payment of Commercial invoices would require a co-signature of specific members of council, a number of

cheques had been presented by Facilitech without such a restriction since July 26...” should be changed to June 26 and July 25, respectively.

2. MOTION (Bentz/Lum): To approve the minutes of the Commercial Council as amended for August 9, 2007. Approved.

3. FINANCIALS

Mr. Bob Adams (Facilitech) presented the Aged Receivable Summary statement. A discussion followed regarding the strata fees increases. Mr. Adams stated that the the Aged Receivable Summary includes the AGM meeting resolutions calculations with an increase of 59% of the strata fees.

Peter Morgan, as past-president, told the Commercial Board and Mr. Adams that would only be true if Facilitech continued to fail to apply both the instructions from the previous Commercial Council and the instructions contained in a resolution approved at the Annual General Meeting. Facilitech had ignored instructions given to it at a council meeting before the AGM that the total deficit of the 2007 fiscal year be divided between capital costs and operational costs, so that the unique costs of the year within the deficit be calculated so that it would be subject to a special assessment, and the balance be incorporated into a percentage increase in on-going maintenance fees over the year. However Facilitech failed to make such a calculation, and failed to prepare the correct resolution for the AGM, and failed to provided a draft of the resolution to the Commercial Council before distributing the resolution so that the error could be caught and rectified. Those errors required an amendment to the resolution, which was approved unanimously at the AGM, for the subsequent Board to do as the previous Board requested: separate the costs between a special assessment and a percentage increase. Mr. Adams stated that, although two members of his staff were present, including the then-Property Manager, he was not present at the portion of the AGM meeting when the amendment occurred, and so wasn't aware of the AGM change.

Mr. Tony Lum replied that if the assessment would be made entirely as a special assessment the percentage of increase in strata fees will be equalled to zero. The discussion continued around the appropriate amount of a special assessment and percentage change in strata fees for the fiscal year ending in 2008.

MOTION: (Bentz/Davies): The percentage of strata fee increase to be 6%, balance to be paid as a one-time special assessment. Approved.

Several questions were addressed to Mr. Adams regarding the CRF and outstanding strata fees by the strata council members. Mr. Adams did not have the financial documents with him, and documents provided to the meeting were incorrect as a result of motions made at the meeting. Mr. Bentz stated that a financial discussion cannot take place without the financial documents presented.

MOTION: To table the financials to the next meeting. Approved.

DELEGATION

Ms. Martha Walsh (Strata Lot 349) started her speech by inviting the strata council members at a Business Reception for the opening of Sanderson Planning located in unit 135 on August 21, 2007 (*Anna, please check the date; I think it's September 26, but you have the invitation*). Then she said that she was on Direct Deposit via Facilitech and noted that a 13.5% increase in her strata fee had been deducted, but she has no copies of the minutes where the increase was approved. Mr. Adams justified this saying that the increase was approved in a previous meeting. Council did not believe this to be the case, as it had only just dealt with the subject, but would check the minutes of previous meetings. Ms. Walsh addressed a formal request to Facilitech-cc Bob Adams-to remove her company from the pre-approved payment system, and to explain the automated withdrawals from her bank account with no paper work received. She said that she is sending the written formal request, next day to Facilitech. On Aug 3, 2007 she paid (automated withdrawal from bank account) an increase of 13.5% strata fee and in May, 2007, Facilitich made two automated withdrawals, one for May and one for June, instead of one only for the June strata fee. Mr. Bentz asked Mr. Adams if this increase of 13.5% in strata fees was applied to all the strata lots. Mr. Bob Adams said that because he did not have the financials documents with him, he could not answer the question.

The Board told Ms. Walsh it would investigate the matter, and Mr. Adams agreed that he would do the same.

Mr. Morgan provided a copy of the minutes of the meeting at which Facilitech claimed the increase in fees and their collection were approved. The minutes did not record such a discussion.

Mr. Adams stated that the fees are not the same for all the owners as for instance, the window cleaning service is not charged to all units (as some units do not have windows). Mr. Lum asked Mr. Adams to supply the council at the next meeting with the three-level budget-service break down that shows the rate differences, and stated that Facilitech is doing a poor job in business documents, bookkeeping and looking after the Corporation's interests. He also said that this is the reason that the council members decided to terminate Facilitech.

3:55 pm-Mr. Bentz left the meeting.

Mr. Adams stated that he wished it to be on the record that the Commercial Council, through its decision to become self-managed, was acting outside of the Strata Property Act. He urged the council to call an a General Owners Meeting. He also advised the council to get legal advice in the way it was terminating Facilitech. Mr. John Davies replied at this that is not a legal issue, it is just a termination of a contractor (Facilitech) with notice.

Discussion continued around this subject: Mr. Eng asked if there is was a dispute when the directors gave Mr. Adams a letter terminating Facilitech's services. Mr. Adams insisted the council should seek legal advice.

4 pm: Mark Bentz returned to the meeting.

4. ADMINISTRATIVE & GENERAL

The discussions below between Council and Mr. Adams, whose company will continue to represent the Residential Section of the Electra, were to the results of how staff and services are to be shared or split between residential and commercial sections of The Electra LMS 1866 as of September 1, 2007, when the switch to self-management occurs for the Commercial Section.

Building Manager

Mr. Adams proposed the Commercial Section custodian, Jerry Andruszko, sign a waiver of his employment changes, and changes to his benefits package, to prevent it from being construed as constructive dismissal. The benefits package was being supplied through Facilitech, and it will end with the change-over. Mr. Lum said that he has been waiting for Facilitech to provide Council with the details of the benefits package so that the Commercial Section can set up an equivalent plan for Jerry, and had requested the details from Facilitech more than six weeks ago, but still hasn't received them. Mr. Adams said he would supply them shortly. Mr. Lum said that the Board was considering either the Board of Trade benefits plan, or a plan offered by The Cooperators. Mr. Lum said that the changes are would benefit of Jerry, *only that the council has the plan of in-house management for commercial site.*

(Anna, I don't understand the last part of that last sentence. I've put it in italics.)

Mr. Adams said that Danny Macinlapic (the Electra Building Manager) had signed an employment waiver, and a new letter of employment to reflect changes to his position.

MOTION: (Davies/Lum): To allow Danny Macinlapic (the Electra Building Manager) begin working 100% for the Electra Residential Section, effective September 1, 2007. The waiver to be signed as his salary was increased July 16, 2007. Approved.

Mr. Davies mentioned that Jerry has been doing concierge services for the residential section, and, due to these disruptions, the building is not as clean as it could be. He asked that the residential section provide a person to handle concierge requests. Jerry will be made available for residential emergencies, as Danny will be made available for Commercial emergencies, and Jerry would be available to assist moves in/out for both residential and commercial.

Telephone and Pager

The expenses will be not shared as the commercial now has separate telephone lines and pagers.

Legal & Audit- It will be the same, shared between commercial and residential seconds on the standard 60/40 split.

Postage & Bank Charges-no change (shared)

4:20 pm: Mr. Eng left the meeting.

Security: Will no longer be shared effective October 1, 2007.

Electricity & Gas: Shared as usual

Water & Steam- Shared as usual

5. PROPERTY OPERATION & MAINTENANCE

Waste Removal & Contract Cleaning-Shared as usual

MOTION (Lum /Davies): The retail corridor — opposite units L3, 4 and 5 — to be used for moving retail waste, effective Sept. 1, 2007. The retail units are supposed to use this corridor and connecting door and not to go past the restrooms. Approved.

Building Expenses-shared- However, general common area needs will require more investigation so that improvements can be made to the cost-sharing later.

Furniture & Equipment-shared- the cost sharing of annual generator testing needs further discussions.

Mr. Benz mentioned that the fees for fire inspections and testing are too high. Bob Adams replied that Facilitech normal process is to get quotes and then choose the best company.

Common area Ceilings, Floor Covering, Painting & Decorating, Signs, Landscaping, Snow Removal, Light Bulbs, Entry Phone systems, Recreation Area and Insurance- all shared as now

Elevators: Costs per residential or commercial, depending on the location of the elevator, apportioned as usual.

Entry Phone: The entry phone costs needs more investigation, as there are separate systems.

Insurance: Mr. Lum asked Mr Adams to send a copy of the latest insurance policy to the Commercial Council directors.

Steam: Mr. Lum said that the steam contract needs to be analysed in order to find a more efficient way to reduce its cost. Regarding the steam cost split between commercial and residential, Mr. Bentz requested action in the near future to mitigate the shared-steam as the steam for the commercial site shuts down its HVAC system at 9 pm (12 h access) while the residential use of steam occurs 24 h/day. He also mentioned that window repair and maintenance needs more investigations on sharing costs. Mr. Tony Lum agreed that this subject needs further discussions. Mr. Bentz agreed that he would look into the matter and report to a future Board meeting.

Mr. Adams said that an engineering consultant he had hired will do a survey regarding the steam situation, and the consultant's fees are to be included in the insurance claim. Mr. Lum also mentioned that the Central Heat invoice still needs to be discussed with the company to see if the invoice can be adjusted for the time when the heat exchanger was faulty. Mr. Lum and Mr. Davies asked Mr. Adams if there are any back charges for the steam. Mr. Adams replied that he'll have to recheck this as he is not sure. Mr. Lum asked Mr. Adams to confirm that the steam charges are now current. Mr. Adams agreed they had been paid up to date. Mr. Adams said that he expected the consultant to report on the steam situation in three to four weeks, and that the insurance claim's extent was contingent on the report's conclusions.

Elevator Room A/C: Mr. Lum & Mr. Davies mentioned that the elevator room still needs an air conditioning unit to be installed, as was discussed in earlier Board meetings with Facilitech, but this had still not been done. Mr. Adams said he would ask the building manager to look into this before the switchover.

Basement Security Door Readers: Mr. Lum reported that these are still being investigated. Jason is now servicing the security system as the previous contractor, Smart Tek is no longer being used due to their expense and lack of availability.

Basement Improvements: Mr. Lum, speaking as the basement's owner and not as a director, gave details regarding the engineering approvals for HVAC changes that resulted from the basement area improvements and bike room storage.

MOTION: (Davies/Bentz): That AEBC Internet Corporation's requested to tie in his company's HVAC changes be approved to proceed according to the stamped engineering plans circulated separately. Approved. Mr. Lum abstained due to conflict of interest.

MOTION: (Davies/Lum): To adjourn the meeting at 5:26 pm.