



Minutes of the General Assembly of the ASO on Sep. 9th 2021

Present:

The Board of Directors: Elena Mamaeva, Claus-Peter Harm, Bernd Pinter, Roswitha Pinter, Walter Marienfeld.

42 full members

Beginning: 3.15 p.m.

End: 6 p.m.

Location: Restaurant S'Estiu in Canyamel

Secretary: Hendrika Böhrens

Agenda items:

1. Determination of the quorum
2. Welcome and opening of the meeting
3. Confirmation of the timely invitation
4. Resolution on voting by show of hands
5. Vote on the admission of new members
6. Report of the board about the legal activities of the ASO lawyer
7. Proposal of the board about the road repair in Costa Canyamel
8. Proposal about the replacement of the board of directors
9. Report of the treasurer, Mrs. Roswitha Pinter, about the expenses 2019-2020
10. Report of the auditors
11. Resolution on the annual financial statement 2019-2020
12. Discharge of the board of directors according to article 13 of the statutes
13. Determination of the date for the next general assembly
14. Miscellaneous

The meeting must be moved at short notice due to corona from the originally planned location "Torre" to the restaurant "S'Estiu" in Canyamel and therefore begins with 15 minutes delay at 3.15 p.m.

Due to the special situation, the items on the agenda are to be carried out in a streamlined manner.

Item 1 - 5

Claus Harm welcomes as chairman of the meeting the 42 attending members, who represent further 17 members by proxy. Thus the ASO has after 12 resignations and 8 new applications over 145 members. The quorum is thus established.

The invitation was issued in due time.

The present members agree that voting results are to take place by show of hands.

The new 8 members are mentioned by name and welcomed without dissenting votes.

Item 6 Report of the executive committee about the relationship ASO - attorney J. Aurelio

Item 6a Dissolution of the earmarked contribution

(Item 6 is extended by Claus Harm by item 6a, which concerns the earmarked contribution).

Lawyer Aurelio Pinas, who had been proposed and introduced by board member Rainer Maus, was assigned the following tasks:

1. Clarification of the legal situation of the Costa de Canyamel (CdC).
2. Road rehabilitation

For these activities a sum of 90.000 Euros plus contingency fee in unknown amount plus tax was agreed.

1. Clarification of the legal situation of the Costa de Canyamel (CdC)

In the opinion of the lawyer, the CdC is incorporated, so that the municipality of Capdepera has to ensure a proper condition of the roads.

A Junta de Compensacion sought by the municipality, which would legally release the municipality from its duties and make every homeowner with land liable, is thus not necessary.

In any case, it is usually established only in a newly created urbanization, unlike the CdC, which has existed for decades.

Such an incorporation requires the consent of 60% of the owners. This was not obtained, possibly also with the help of the lawyer Aurelio, until today, so that it came to no Junta de Compensacion.

The municipality of Capdepera has not confirmed the incorporation to this day, has deliberately allowed the CdC to deteriorate for years through inaction and is not cooperative in any way.

The lawyer of the ASO has accepted this and has not reacted to it.

The establishment of a Junta de Cooperacion, which the ASO is striving for, did not occur in the past. In contrast to a Junta de Compensacion, the responsibility for rehabilitation measures is assumed by the municipality, not by the group of owners who, after measures have been carried out, have to bear the costs incurred by means of a levy collected by the municipality. According to former board member Froels, a Junta de Cooperacion has become more likely in the meantime, as the legal basis has changed in favor of the municipalities. Under the so-called Ley Montoro (Montoro Law), municipalities in Spain were prohibited from borrowing heavily and going into debt. The law was suspended in 2020. Therefore, it could be negotiated again with the municipality.

It is also possible that, in view of the new legal situation, the previous representatives for the Junta de Compensacion are prepared to respond to the interests of the ASO in establishing a Junta de Cooperacion with the municipality. However, no approach has yet been made by either side in this regard.

2. Road rehabilitation

Although, according to lawyer Aurelio Pinas the CdC is incorporated and thus the rehabilitation of the roads is part of the responsibilities of the municipality, a lawsuit for road rehabilitation is not filed on the part of Aurelio, contrary to what was agreed.

On repeated inquiries on the part of the board and the request for reasons for its inactivity the lawyer has not reacted for one year. There is no communication. The majority of the board members therefore consider the work of the lawyer to be unproductive, especially since he has insisted on a monthly fee of 5000 euros and a sum of more than 60,000 euros + IVA has already been paid to him without the interests of OSA having been advanced. In order to reach an amicable agreement, a new contract has been drawn up by the Board of the ASO, to which, however, the lawyer has again not responded despite reminders. Payments to him have therefore been suspended. The ASO lawyer has not reacted to this either.

In the meantime, communication between the two sides has been disrupted to such an extent that, in the opinion of the majority of the Board, cooperation is no longer possible. The majority no longer trusts that this lawyer can positively represent the interests of ASO. Altogether three members of the board, who were of other opinion, left thereupon the board, which asks now the general assembly to agree by tuning to a notice of dismissal José Aurelios Pinas, which is possible after technical consultation by the new lawyer Tirso Tarrago from Palma without subsequent costs and associated necessary reserves for the ASO.

The termination is accompanied by the request to José Aurelio Pinas to hand over all documents concerning the CdC to the ASO, which he is obliged to do according to statements by Tirso Tarrago, whom Elena Mamaeva has meanwhile visited in her function as president of the ASO.

There follows a discussion among the members as to whether this plan is pertinent.

The motion to dismiss the lawyer is then approved with 7 votes against and 2 abstentions.

The motion to dissolve the earmarked contribution is approved unanimously.

Thus, the money collected on the part of the ASO can be used for the road rehabilitation and does not have to be repaid.

Item 7 Proposal of the Board for road repair in the CdC.

The board would now like to invest the remaining money in road repair, which is to be driven forward by the newly formed committee. The committee currently consists of ASO members Bernd Kröger, Walter Marienfeld and Bernd Pinter. If necessary, the ASO is to be legally supported in the implementation of the above-mentioned plans by lawyer Tirso Tarrago, whose work is to be billed on an hourly basis. A first cost estimate on the part of the company COEXA for the repair of 4 main roads in Costa is € 21,000 +IVA. This is an amount that ASO is able to pay immediately. An extension to a total of 7 roads would cost about € 42,000 according to the estimate of the Road Rehabilitation Committee. The ASO is also able to pay this amount. The streets in question are the following:

Via de las Cales

Via del Cigne
Via de la Costa
Via de Condor
Via de Corp Mari
Via del Bosque
Via del Voltor

To the objection of members that too few streets are considered, it is replied that if the rehabilitation of these first streets is successful, others could follow and be paid from future membership fees. Objections that the planned rehabilitation measures are unprofessional are countered with reference to the competence and experience of the COEXA company.

It is proposed to first have another discussion with the community about the rehabilitation of the roads, then to wait one month for a reaction, and only then to commission COEXA with the measures in order to be sure that the community does not feel ignored.

This motion is approved without dissenting vote with 4 abstentions.

Item 8 Proposal for the replacement of the Board of Directors

Mrs. Eva Jung-Gohlke is unanimously admitted to the ASO board as an assessor.

She introduces herself as a long-time resident in the CdC and asks all members to actively participate in the ASO.

Mrs. Elena Mamaeva resigns as President of the OSA for family reasons.

She states as a conclusion of her work that there are big projects to be tackled, but from within the ASO there is too little interest to cooperate. Since all active members work voluntarily and without remuneration outside of their other daily routine, many things have to be left undone. More willingness to cooperate on the part of the members of the ASO could lead to more success.

Constructive criticism is always welcome in this activity, but not personal or even disparaging one.

She goes on to point out that she has significant concerns about the municipality's ability to undertake large-scale projects such as road rehabilitation and sewer work in the CdC. She said there was more of a risk that work could be started but not completed, leaving Costa a major construction site without completion for years to come.

She therefore considers the intended initiative of the residents of the CdC to be more purposeful.

Claus Harm thanks Mrs. Mamaeva for her work under the applause of all.

He points out that according to §19 of the statutes of the association the board has to elect a new president. The Board agrees on Eva Jung-Gohlke as the new President and Elena Mamaeva as Vice President and announces the result.

Item 9 Report of the treasurer about expenditures 2019 - 2020

Treasurer Roswitha Pinter reports on ASO expenditures and income in 2019 and 2020.

She reports about

- Special deposits in these two years in the amount of 87,360 € and
- Legal fees in the amount of 68,723 €.

The current balance in the treasury is € 73,497.33.

Item 10 Report of the auditors

The auditors Mrs. Gesine Harm and Lothar Gruhle confirm a proper bookkeeping.

Items 11 and 12

Resolution on the annual financial statements for 2019 and 2020 and discharge of the Executive Board in accordance with Article 13 of the Articles of Association.

Item 13 Determination of the date of the next General Assembly

The next General Assembly will take place on September, 17th, 2022.

Item 14 Miscellaneous

It is pointed out that from September, 17th, 2022 present members can make themselves available as members of the advisory board, who could supplement the board in the event of the possible loss of a member.

Mr. Bernd Kröger suggests that a technical committee should be founded to revise the statutes of the ASO, which seem to him to be outdated.

The head of the meeting, Mr. Claus Harm, thanks those present members for their participation and closes the meeting at 6 pm.

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