

## LAUNCH PURCHASE

David, you have asked me, as Chair of the Constitution and By-Laws Committee, to take a look at the question raised by the Board's decision to purchase a new launch for \$43,000. The launch is apparently needed to replace a less utilized one and is scheduled to arrive in August. From the materials that I have, the argument against the purchase seems to be that it "violates the spirit and intent of ARTICLE II, Section 6 of the PYC By-Laws." That article provides:

### ARTICLE II - Section 6.

The Capital Improvement Committee (CIC), appointed by the Commodore in accordance with Section 1 and 2 above, shall develop a Capital Improvement Plan (CIP) to maintain the structural integrity of the Club's property and equipment as required by Constitution Article IX, Section 3. The CIP shall cover a minimum period of ten years and be updated and posted annually. The CIP shall identify planned Capital Projects that would cost more than the Maintenance and Repair budget would normally cover. The CIP shall also provide for unexpected and unplanned maintenance/repair costs of up to ten thousand dollars. The Committee will submit a prioritized list of recommended Capital Projects, with cost estimates, for Board approval and funding authorization not later than the September Board of Directors Meeting. All Board approved and funded Capital Projects will be presented at the Annual Meeting for review and endorsement.

Also significant is The PYC CONSTITUTION. ARTICLE IX, Duty of the Board of Directors, Section 1, provides:

The entire management and control of the affairs of the Club, subject in all respects to such instructions and limitations as may from time to time be prescribed by the Club, shall be in the hands of the Board of twelve Directors except as herein provided.

In this instance, you have provided me with the PYC BALANCE SHEET as of June 30, 2017, which includes:

Account number 1459 – Savings – Contingencies - \$12,623.14  
Account number 1453 – Capital Improvements – Launch - \$35,000

I assume the accounts exist because of previous authorizations of the membership at annual meetings. I understand, also, the old launch will be sold and the funds deposited in the launch or contingency fund.

I have also read Art Dionne's opinion and find it compelling. While I recognize there is often more than one interpretation of Constitution and By-Law provisions relating to the power of a board of directors, it is my view the usual premise is that good faith actions by a board with general responsibility for managing an organization's affairs are within its apparent authority when supported by reasonable facts and absent strong evidence to the contrary.

So, in addition to the argument that the Board should be able to respond to unexpected contingencies when general funds are available, in this case specific accounts are marked with funds for a launch purchase and for contingencies. Since there does not appear to be a time limitation for expenditure of those funds, it would not seem unreasonable for the board to use the funds to purchase the launch now. The members may decide next year whether the funds budgeted for the years 2018 – 2025 for a new launch should be redirected to other capital needs. Or, of course, they could vote to sell the new launch and restore the funds to the appropriate accounts. In this instance, then, it does not seem that the Board has violated the spirit or intent of the Constitution and By-Laws.

Our yacht club is very special. I have no doubt that members who disagree with this action of the Board, or who disagree from time to time with other actions of the Board, are of the strong belief it is in the best interest of the club to do so. Even in disagreement, we all benefit from open discussions, and we all have a stake in ensuring PYC is a place of friendship and congeniality.

Best,

Joe