

ASSOCIATION - BOARD MINUTES - May 17, 2010

Call to order - 6:05 pm

In Attendance:

Richard Chapman

Ruth Hexter (6:25pm)

Bob Hayes

Donna Dietz

Ron Ewart

Marcia Erickson

Absent:

Rod Austin

Steve Schmidt

Dick Hexter

Guest(s):

Dan Cederberg

(HOA Attorney)

Previous meeting minutes read and approved unanimously

Old Business

Dan Cederberg reviewed proposed changes to HOA Bylaws; two (2) basic types of changes are being proposed -

- 1) Minor consistency adjustments and grammar / spelling corrections
- 2) More substantive adjustments to either comply with state law or to provide better legal protection for the overall organization

On the matter of the conflict between the Covenants and Bylaws with regard to the composition of the Board of Directors, in which the Covenants say the Board shall consist of a President, Secretary, and Treasurer ... our attorney's reading of this held that the Covenants trumped both the Bylaws and the Articles of Incorporation. This meant that the 9 person Board was not legal. Actions taken by the expanded Board, however, were legal because in all cases the President, Secretary, and Treasurer had voted 'aye.' So, among other things, discussing the revisions to the Bylaws would make no sense until this situation was resolved. Dan Cederberg proposed to seek a Second Opinion from another attorney, at no charge to the HOA.

Richard cut short Dan's review of this situation on the grounds that the Board had been informed of the outcome by e-mail. [The Second Opinion attorney took the position that the Covenants governed the property while the Bylaws and the Articles

of Incorporation governed the association and it's governing Board, so the conflict wasn't an actual conflict. He further said that in equity, the case can be made that the Association has been functioning for some time as if the conflict did not exist ... this note is added to the minutes by Richard]

Regarding the Bylaws, Dan Cederberg noted the following changes:

#### DEFINITIONS

2.4 - Declaration of Covenants - add recording reference for Pleasant View Homes No. 5, Phases 1 and 2

2.7 - Member - definition of 'Member'; changed to match the Articles of Incorporation.

#### MEMBERSHIP

3.2 - Voting Rights - Clarification (no change) of Members and their voting rights.

3.5 - Notice of Meetings - to Members (not Directors); add fax and email notice in addition to U.S. Mail [this is the same as 4.8 Notice of Meetings to Directors], also added attendance waiver at end of section ... following State statute.

3.8 - Membership Rolls - standard meeting notification language

3.9 and 3.10 - Absentee Ballots and Voting; changes to accommodate absentee ballots and use of proxy votes ... following State statute. Our Attorney will furnish a standard / typical proxy form for use during elections, to be mailed with ballot forms.

#### BOARD OF DIRECTORS

4.2 - Board of Directors - voting; discussion revolved around revising / proposing to allow Alternate Director to cast vote to break any 'tie vote', as opposed to the old language which had the President of the Board breaking tie votes, in effect boting twice; also Director Terms referenced to 4.4 - Election of Directors.

4.4 - Election of Directors - add email and fax notification for meeting notice methods, also reset 2007 3-year term cycle with 2010 date references.

4.15 - Order of Business - to be determined by President and applied as deemed necessary. The original order of business was bascally archaic and cumbersome.

4.16 - Action Without a Meeting - allows Board to conduct business by email in order to expedite some decisions.

#### COMMITTEES

5.1 - Committees - eliminate the requirement of twenty (20) business days for meeting minutes to be posted.

#### OFFICERS

6.1 - Qualifications, Election and Term of Office - change the election of Officers to be conducted by the Board Members rather than by General Members {General Members will continue to elect the Board Members}.

6.2 - Resignations and Removal - delete section referencing staggered terms since the Board elects the Officers, also add section for Board to remove an Officer.

## ACCOUNTING

7.3 - Interest - delinquent rate - should / will use ten (10%) percent [note: most covenants state 10% -AND- 14% causing conflict and confusion... discussion ensued and our attorney recommended reviewing the use of a 'Late Fee Assessment'.

Due to time constraints the review ended, however, it was noted that a new section - Section 10 - CONFLICTS OF INTEREST, has been recommended for addition.

Board Members should review this section and to save time, submit comments via email prior to next meeting on this section and the balance of the proposed editorial and content changes.

## New Business

There was discussion about a fence encroachment problem by the homeowner at 3705 Kingsbury. His newly installed fence is right up against the Common area sidewalk and is in fact a taking of property that belongs to the HOA. Several members of the Board visited the site during the fence installation to make the homeowner aware of the situation. He knew but went ahead anyhow. Donna moved and Richard seconded that the Board notify the Title Company of this problem and notify the homeowner that he will have to remedy the situation when he tries to sell his house.

Richard said he wanted all Board members to have specific assignments in the development and/or for the Association. There was no time for discussion so this item will be moved to the next meeting.

Final action by the Board was to vote and approve the remuneration of Mardi Milligan for the transcription of the meeting minutes in the amount of seventy-five (\$75.00) dollars ... motion by Richard, second by Bob

Aye - Richard, Bob, Ron

Nay - none

Abstain - Ruth, Donna, Marcia [This was rendered moot by Bob Hayes' excellent job with these notes, and Richard's additions.]

Motion to adjourn at 7:15 pm by Bob, second by Richard, motion passed unanimously.





