

# Cottages HOA Board Meeting Minutes

6 PM May 19, 2022

at Westbrook Home

Attended:

Bob Ferguson – President

Randy Westbrook - Board member

Andrea Perri – Board member

Jonathan Berry – Secretary

Carol Ferguson

Russ Pearson

Jason and Janice Sucher

Bret Van Leeuwen

Steve and Jill Hardle

Lily Berry

## **Steve Hardle: Transparency**

Steve presented the following as advice for the board.

- 1). Get several people involved in the decision process instead of just one.
- 2). Email scheduled HOA board meetings and minutes of those meeting.
- 3). Avoid one person being judge, jury and executioner. Process should be open and involve many minds.

Bob asked for specifics. Steve declined to provide any.

- 4). Jill Hardle is volunteering her technology skills to help with emails, websites and zoom meeting information.

## **Future Meeting Schedules**

After discussion, it was decided that having fixed dates for board meetings will help everyone and will allow all members to know when upcoming HOA board meetings will be. It was decided to have the monthly board meeting on the 2<sup>nd</sup> Wednesday of each month at 7pm by Zoom. Jill Hardle volunteered to issue alerts for board meetings and send out the minutes to members.

It was proposed that we hold all board meetings using Zoom. There was discussion about pros and cons, and it was decided that we would try to do this effective the very next meeting. The annual meeting on June 11, however, will be an exception. Randy moved to vote to adopt zoom for future board meetings. Bob seconded. Voting by the board was unanimous in favor.

### **Web Master**

Questions were raised about the Web Master (Andy Barlow) costs. Are there charges for uploads as well as periodic charges? Jonathan Berry will gather this information by contacting Jessa. Jill Hardle volunteered to be WebMaster using WordPress for free.

### **Road (Lego) Wall**

Randy provided a history of the wall located opposite Ferguson home:

It was noticed that there after a big rain, runoff from Whittemore road had eroded our side of the road shoulder and showed signs of the road collapsing eventually. Work was done by Randy to shore up the edging of Whittemore road to prevent further erosion, but something more permanent needed to be done. Jerry Smith (who has concrete experience and equipment available to him) contacted Randy to offer to shore up the failing hillside with big interlocking cement blocks. This was done at no charge. There are some lot owners who have expressed concerns that the blocks look to not be vertically level. It would cost about \$500 to have an engineer consult us whether something needs to be done.

There was a discussion about whether the retaining wall has a problem or not. It was decided we would wait and see if the wall shifts, fails to perform its purpose, or does not move.

### **Road Damage**

There was discussion about the road damage caused by heavy construction machines. The concern is about how to ensure the road is properly repaired. It was proposed that a bond be required by the lot owner for new construction. It is suggested that we add the bond requirement to the ByLaws or Architectural

Requirements. Carol will research the current CCRs to determine if the authority already exists for us to amend the ByLaws and/or the Architectural Requirements.

## **Landscape**

There was a discussion about possibly grading and adding rock to a small triangular area next to E Meadow Bridge Dr between lots 6 and 7 which is open space. Currently it looks like a debris pit and could easily be made more attractive and usable for members to use. Possibly adding a picnic table or benches. Andrea said a truck load of rock would cost around \$800. Extra rock could be applied to the center section.

This will be further discussed in future Landscaping committee meetings before being presented to the board.

## **Board Expansion**

The possibility of increasing the number of voting board members to 5 was discussed. We talked about pros and cons. What the CCRs and ByLaws had to say about it were considered. Jason Sucher advised that 3 board members for The Cottages was appropriate. It was decided not to vote on this matter.

## **HOA Documents**

Bob presented to the board a process on how we might have our updated CCR's voted on. See APPENDIX A & B for a summary and communication from Gordon Law firm that backs up the process from a legal standpoint. The process allows us to obtain votes by mail or email. Bob motioned to accept this process for CCR amendment voting. Randy seconded. Voting by board was unanimous in favor. Jason Sucher recommended that we keep the CCRs and Bylaws as separate documents. Jill Hardle offered to help anyone who needs assistance to setup and use Zoom.

## **CCR revisions and county approval**

Jason Sucher said he will try to ask Tyler LaMarr to provide us a free consult about our situation with the County and getting our CCRs approved. There will be a zoom meeting soon to provide Jason with the needed info.

**Proxy Votes**

The question was brought up about Proxy voting. Jason Sucher said that CCR votes must be cast directly from each lot owner. And that proxy voting is primarily only used when electing board members. And that Officers are appointed, not voted on.

Mtg adjourned at 8:45 PM

# APPENDIX A

## Summary for New CC&R Process Proposal

### 1. Solicitation of Comments

Mail **and** email the document drafts, a comment form with simple instructions, and a time deadline of **60 days**. Enclose a postage-paid, addressed envelope for return of filled in comment forms.

### 2. Board Review of Comments

When comment deadline expires, any suggested changes the Board approves will be inserted into the appropriate document, at the appropriate **Article and Section**. **15 days** limit for Board review.

### 3. Mail-in Ballot Process

Finally, mail **and** email to members a copy of the **Finalized** documents, with a form to vote “**approval or disapproval.**” Include a deadline time of **30 days**. Include also sample instructions, and a postage-paid, addressed envelope.

Bob Ferguson

HOA President

# APPENDIX B



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**PRIVILEGED & CONFIDENTIAL  
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**OPINION MEMORANDUM**

TO: Robert Ferguson, Cottages at Hobble Creek

FROM: Corbin Gordon

DATE: May 13, 2022

RE: Legal opinion regarding proposed CC&R and Bylaws Amendment Process

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**INTRODUCTION**

We have been asked to provide a legal opinion regarding the proposed process for amending the CC&Rs and Bylaws of the Association. Specifically, this Opinion Memorandum addresses the following issues: 1) the proposition to use mail-in balloting in lieu of an in-person meeting to decide the issue; 2) the proposed method and timing for soliciting comments on the new drafts; and 3) the process for conducting the vote on the proposed changes without a meeting.

**ANALYSIS**

1) Using a mail-in ballot procedure in lieu of an in-person meeting.

Utah law clearly provides for the use of a written ballot method for voting on any action that may be taken at any annual, regular or special meeting of the members. Additionally, Section 6 of the existing By-laws also specifically addresses this issue and allows for this method of voting. Given the on-going concerns regarding COVID, the need to meet the “fair and reasonable” time frames described below, as well as the desire of the Board to give adequate time and opportunity for each member to thoughtfully participate in the process, the Board appears to have a solid legal basis for deciding to proceed with the mail-in ballot process.

2) Solicitation of Comments on proposed changes.

Before submitting the proposed amended documents to the membership for a vote, the Board proposes to provide ample time for written comments on the drafts. The Board therefore proposes to mail and email the draft documents to each of the members for their review and comment.

The proposed sixty-day comment period appears to be more than sufficient for each of the members to have the opportunity to read and comment on the drafts.

The Board also proposes to include a simple comment form, upon which each member may make comments, suggested edits, or suggested additions to the proposed draft documents.

A self-addressed, stamped envelope will also be included in the mailing to simplify the process for returning comments.

This proposed procedure meets the requirements of Utah Code §16-6a-709(8)(a) regarding the provision of a “fair and reasonable” amount of time before requesting a vote on the proposed changes.

We suggest that the Board consider including the original documents in the mailing so that each member can clearly see what sections of the original documents are being amended.

In addition to clearly stating the deadline for returning the comment forms, we suggest that fifteen days before the deadline, a reminder email or letter be sent to each member that has not responded to make sure they haven't inadvertently forgotten the deadline.

3) Board review of the comments, changes and additions received on the comment forms.

Following the expiration of the deadline for return of the comment forms, the Board proposes a fifteen (15) day time limit for collating and reviewing the comments, determining which comments, edits or additions should be included in the draft, and preparing the final drafts of each document.

This time frame appears to be adequate. The question that is sure to arise will be the Board's discretion in accepting or rejecting the proposed changes. We suggest that a copy of all of the comment forms be made available to all members, so they can clearly see the suggested edits of each of the other members. The Board may also consider preparing an explanatory letter setting forth the Board's reasoning behind each decision on what edits to accept and what to reject. Transparency and clarity are very important so that no member can reasonably complain that they did not have sufficient information about the process.

4) The mail-in voting process.

Following the expiration of the fifteen-day period in which to accept or reject suggested edits and prepare the final proposed drafts, the Board will mail and email a copy of the finalized draft documents to each member, along with a voting form. The Board proposes to include a self-addressed, stamped envelope, along with the ballot, and to allow a deadline of thirty (30)

days for the return of the physical ballots. This also appears to be a fair and reasonable amount of time in which to vote. Obviously, in addition to a “for” and “against” box to check, the ballots should have the deadline for voting clearly printed, along with places for the name and address of the member, the Lot which the vote represents, and a signature line for the member.

We suggest that the Board consider a reminder email or letter be sent ten days before the deadline for voting. We also suggest that the Board consider whether scanned and emailed ballots will be accepted, or whether the actual physical ballot must be received by mail or in person by the deadline.

### **CONCLUSION**

The review and voting process proposed by the Board appears to meet all the applicable requirements in the State Code, and in the existing Bylaws. The time periods suggested by the Board appear to meet the “fair and reasonable” standard.