

October 10, 2019 - SCHOA Board Meeting Minutes

Meeting held at Totem Falls Elementary Library at 7 pm

Members in attendance were: Lori Hudson, Chris Birchman, Maureen Miller, Sarah Keyes, Farrell Prete, John and Cynthia MacKenzie, Jason Leander, Tricia Cooke, Holly and Darrell Buchanan, Grace Jarchow, Justin Shaw, Matt Wood, Janet Church, Justin and Desiree Lothyan, Ric Newgard, Joy Paul, Josh Becker, Ernie and Katherine Belousek, Denae and Phil Bastian, Keri Newby, Jason Melton, Nick Zevenbergen, Susan Ridley, Linda Tygert-Lillard, Tami Zevenbergen, Anthony Rudolph, Michelle Haneberg.

Meeting called to order at 7:04 pm. All three board members in attendance, so a quorum was present.

A motion was made by Michelle Haneberg to approve the minutes of the June board meeting. Motion seconded by Tami Zevenbergen. Motion passed 3-0.

A motion was made by Tami Zevenbergen to have an Executive Session prior to the next board meeting to discuss private matters relating to individual homeowners. Motion seconded by Michelle Haneberg and passed 3-0.

A motion was made by Anthony Rudolph to accept or reject payment plans/fee waivers as agreed to in executive session. Michelle Haneberg seconded the motion and the motion passed 3-0.

Financial Report by Anthony Rudolph for June-September:

Checking Account: \$63,515.35

Reserve Account: \$45,953.00

Archey's Landscaping: \$13,029.18

PUD: \$645.66

Silver Lake Water: \$302.00

ABC Water Specialty: \$321.65

Avalon Aquatics, Inc: \$276.00

Snohomish SD: \$308.00

Costco: \$109.50

Staples: \$21.98

Safeway: \$16.80

Reserve Study:

- WA state law now requires all HOAs to have a reserve study completed by a professional every 3 years
- The study will be extensive, covering all assets of the association and their expected life spans and replacement costs. HOAs will not be bound by the study and reports provided but it will be a useful tool in determining the yearly budget.
- Three bids were taken for reserve study professionals - printouts were provided
- This was not an item that was budgeted for 2019. The Board will look closer at the budget to see how funding makes the most sense.

A motion was made by Tami Zevenbergen to hire John Brown to conduct a level 1 Reserve Study at a cost of \$1395 to conduct study. Anthony Rudolph seconded the motion. The motion passed 3-0.

Fine Schedule:

- In response to enforcement of current CC&Rs, the board feels that it would be helpful to have a document outlining the fees that would accrue if a homeowner chooses not to address a violation in the CC&Rs. A proposed updated fine schedule was shared.
- The goal is not to fine homeowners. Many times owners are unaware of the violation. The board would try and work with homeowners personally first and give time to comply before enacting a fine.
- The Fine schedule would be included in a new “Welcome packet” the board is currently working on and be posted on the website so there would be no surprises.
- The decision was made to table the discussion before voting on the fine schedule. The schedule will be included in the minutes and feedback is encouraged.

Documents Project:

- A timeline summary was distributed to homeowners (see timeline summary). Anthony went over the timeline summary to convey to homeowners how the board arrived at the agenda item for this meeting. The team has made significant progress since September of this year.
 - Michelle Haneberg was unaware that the timeline was created and felt it was an unfair representation of the project’s progress.
 - [Since the meeting \(10/10/2019\) an email was sent from Denae Bastian disputing the timeline’s accuracy and insufficiencies. It has been included in these minutes as requested. \(shared at 12/12/19 Board meeting\)](#)
- Summary from Revision Team provided by Janet Church
 - Janet Church indicated that the timeline reviewed by Anthony was mostly accurate. Provided an overview of the process involved in taking current documents and making them easier to read and more up-to-date. New laws for HOAs were passed in 2018 and again in 2019, making it a challenge to determine what parts are applicable to our association and/or conflict with our current documents. Phil has worked very hard to ensure our new documents comply with new rules. The team has met several times this last month and are close to completing the CC&Rs. The Articles of Incorporation and the Bylaws are complete.

Additional revision project information was given by attorney Phil Bastian, legal counsel for SCHOA.

- Phil shared the legal history of HOAs, what laws have controlled them, and how those laws have changed over time. He also summarized his extensive work with the team and the fact that the project has been far more complex than was initially anticipated due to changes in state law. Phil believes it is possible to have completed drafts of each of the governing documents ready by November 8 for the Board to share with members.
- Much discussion was had over whether to have a deadline and whether a plan should be in place if the documents are not completed in a timely manner.
- Tami and Anthony discussed the option of using a different hired attorney to complete the documents in the event that the CC&R’s would not be ready for a vote by the Feb/March Annual Meeting. Much discussion followed.
- The board acknowledged having received 8 emails in support of Mr. Bastian. A petition with 35 members’ signatures representing 27 households was also signed in support of retaining Phil. The petition stated: “We are asking that you keep Phil Bastian as the acting attorney for the

Falls neighborhood association. He is not charging anything, the cost is free and he is doing everything diplomatically. He has lived here for 25 years and we trust him to do what is best for the neighborhood, as he has been doing.” It was clarified there was never a discussion to remove Phil from advising the board, only the CC&R revisions project due to the nearly 5 year timeline on the project.

- It was suggested that once the documents are complete, it would still be a good idea to have another attorney, specialized in HOA law, review them to ensure that nothing was missed and no new laws would conflict. Some members of the revision team agreed with this proposal.
 - Based on some independent research calls to HOA attorneys in the area, the estimated cost for reviewing a mostly complete set of documents would likely run from \$5K-10K depending on how many revisions would be needed. Michelle stated that she did not believe this was an accurate estimate because the attorneys who were asked were not given the full scope of the project and therefore could not have given an accurate estimate.
 - It was suggested that the current \$5K in the budget for legal fees and some money in our reserve account could be used to pay for the secondary review.
 - A completion deadline of November 8th was determined to be reasonable by the CC&R Revisions Team in order to allow time for review by a second attorney and hold several homeowner meetings for review and discussion before the vote at the Annual meeting in February or March.

- A suggestion was made to ensure that our Bylaws include a section regarding holding elections of board members. Phil Bastian, suggested there be a separate election committee, created by the board to outline procedures and rules and for determining a winner in case of a tie.

Vote to hire paid counsel to draft new documents or complete existing work by revision team:

- After hearing from the revision team and attending their last meeting, the board wants to allow them to finish the documents.

A motion was made by Tami Zevenbergen to hire paid counsel to draft new documents or complete existing work by the revision team, replacing Phil Bastian as lead attorney for the documents revisions/drafting project. Anthony Rudolph seconded the motion, and the motion failed 0-3.

Meeting adjourned at 9:03 pm.

CC&R’s Timeline Summary

2015

3/18- (MINUTES) - Revision team START

July/Aug- (MINUTES) - Brought down % to change governing documents

10/6 - (MINUTES) “tackle the CCR’s first and then the Articles of Incorporation and the Bylaws.”

11/3 (MINUTES) (see *****below) “refining fence language to address common property. Goal is to revise CC&R’s first, then Articles and finally Bylaws”

12/1 (MINUTES) “Team Meeting Dec. 10th”

2016

1/5 - (MINUTES) “Start up again Jan 14” (CC&R Team)

2017

9/28 - [CC&R meeting](#)

10/12 -[BOARD Meeting](#) - discussion by homeowners expressing concern with CC&R completion 11/30
- [CC&R meeting](#)

2018

6/14 - [BOARD Meeting](#) - Homeowner discussion with concerns about CC&R’s

10/16 [CC&R meeting](#) - (1st meeting since 11/30/2018) reviewed new law (effective July 1, 2018) with revision team.

10/11- (MINUTES) “The Revision Team will begin meeting again in October to continue work on governing documents. They expect completion and ready for members to vote on at our February Annual Meeting of the Members on February 28, 2019.”

11/20 - [CC&R Team meeting](#)

12/17 - (Email to Revision Team) “At this time, he (Phil) has all the input he needs from the team to create these drafts.” (Denae - after multiple efforts to meet were made by other team members to meet.)

2019

4/8 - [CC&R Team meeting](#)

4/11- [BOARD Meeting](#) - Discussion prompted by homeowners regarding the timeline for documents completion

5/9 - [BOARD Meeting](#) - Phil expressed only needing “days” to complete the documents

6/13 - [BOARD Meeting](#) - Homeowner discussion stressing desire for completion of documents

6/14 - request for documents - no response 6/27 - request for documents - no response

7/17 - Board provided Phil with a deadline of July 31st to produce ALL completed documents. Phil Bastian requested an extension to August 19th. Agreed

8/19 - **Documents Deadline**. No documents produced.

8/20 Physically provided 1st drafts of Bylaws and Articles to Anthony Rudolph

9/8 - Email from Phil to CC&R Team stating it was time to "reconvene the team"

9/10 - **BOARD Meeting** cancelled day of meeting due to insufficient notice. On agenda: CC&R'S. 9/19 - **CC&R Team meeting**. (1st meeting since 11/20/18)

10/1 - **CC&R Team meeting**

10/7 - Bastian's provided Physical DRAFT of Restated CC&R's to CC&R Team and Board

10/8 - **CC&R Team meeting** - joined by all 3 Board Members. Completion Timeframe

10/17 - SCHEDULED **CC&R Team meeting**

10/29 - SCHEDULED **CC&R Team meeting - CC&R Team aiming for documents completion**

**** Nov/Dec 2014 Fence was replaced at 100% cost to HOA. Documents needed to reflect ownership of fence as Common Property of the HOA. Current documents do not.

Letter from Dena Bastian to the Board and the Revision Team 11/14/19.

Last week, Revision Team Members were asked to review the timeline Anthony shared at the October 10, 2019 Board Meeting for accuracy. Below is my response to the team and to the board. I will bring a copy of it to tonight's Board Meeting.

On Sep 27, 2019, I asked Janet if she would look back for me and tell me when we had our first meeting as a Revision Team. I also asked her about dates of any of our first few meetings and who attended. I sought this information for my own use, not for the board. The board's timeline did not come from me.

The main reason I asked Janet for this information was because in September, Tami was frequently saying that the team had been meeting for "nearly 5 years", and my records did not show that. Janet's records confirmed that we had been meeting for Mar nearly 4 years, not 5. While 4 years can seem long, what has been accomplished during that 4 years is significant - much of which is not captured in the timeline created by some of the board.

As for the timeline that was passed out to a few at the last board meeting on October 10th, I was stunned. The intent appeared to be to demean Phil and make the team look half-hearted. It is incomplete, inaccurate in parts, and misrepresents content and context. However, since the board decided by way of vote at the October meeting to retain Phil on the project, it was not worth worrying about or trying to correct.

Now that I see the board is considering sending it to all, even after voting to retain Phil, I am dumbfounded. I would expect a board to take the time to put out accurate and complete information to begin with, and I would expect them to have the team members who actually participated in these meetings provide the information and indicate any lack of information thereof in advance. Yet, when speaking with Anthony the night of the meeting, he told me that the timeline was done the day of the meeting and in retaliation for what he felt Michelle was doing. He admitted Phil took the brunt of his anger and he apologized. We thought that meant he would no longer seek to publish the faulty timeline to others, especially since it was done out of anger.

This hastily prepared timeline is inaccurate and incomplete. Even the very first line of the timeline is in error - 7 months off. The second line is also in error. The second line mentions July/August of 2015 when it was actually June of 2016. It goes on from there with correct and incorrect information.

I was on the board when the idea of revising the documents was considered. Phil was willing to help, and had the skill to do so, so we decided to give it a try. I was there first hand, and I know in detail what was said at the meetings and in what context. I continued to attend board meetings, rarely missing any even after my term on the board finished. The timeline presented does not accurately reflect what was really going on or the plan that was beginning to formulate, nor does it accurately reflect what has already been accomplished since initiation.

I would like to add that not only are there problems with the dates on the timeline, but the authors included no information as to why there were periodic gaps between meetings. They took no time to find out either. There were big accomplishments in 2015 and 2016 in our association which are not mentioned and which took a ton of Phil's time. Large gaps were planned - some to help pass difficult amendments, others to accommodate Phil's trial schedule, and others to allow more writing time when team member input was not yet needed. Despite saying this, the gaps in the current timeline are not accurate.

The authors of the timeline also failed to mention that at the June 2019 meeting, the last Board Meeting before the summer break, we ended the meeting with the goal of finishing in September or October feeling that this would be realistic. Even Tami was talking with Phil about October.

Despite leaving the June meeting with a Fall target date, the board emailed Phil in the summer and attempted to impose a July deadline. Why? Why suddenly try to impose a hard deadline

in the middle of summer? This is beyond me. Also it was unrealistic. While Phil had mentioned "days to complete", that meant full work days devoted to only revision of SCHOA documents and without client interruption. He did not mean just a few days from now. Phil was not able to commit to finishing all documents by July, and he did not commit to finishing all the documents by August 19th - although members of the board tried to say he did. Phil did suggest a realistic target date of August 19th for the Bylaws. When getting close to the target date, Phil and Anthony were in close communication with each other. They corresponded by email from August 13th through August 20th with Phil keeping Anthony abreast of where he was on the Bylaws. Then, on Monday, August 19th, the target date, Phil indicated he needed one more day. This was after taking Friday off work, working through the weekend, and taking Monday off work to focus on the new statute and weaving it into our Bylaws. Phil, having communicated to Anthony that he needed one more day, then took Tuesday off as well. On Tuesday evening, Phil hand delivered the Bylaws and the Articles of Incorporation to Anthony's home.

Can you imagine our dismay when we saw a timeline with bold, larger font, red print and underling of the August 19th information - "**Documents Deadline**." followed by "No documents produced."? I guess if Phil had given Anthony whatever he had on August 19th, the board would have been fine, but since a better product was given to Anthony the next day, the authors of the timeline were willing to write "no documents produced". Unbelievable! Then, in small, non-bolded print, the timeline shows on the next day, the 20th, that the documents were provided.

Why was so much more work needed on the bylaws? Most of the team members know and understand the answer. Yet, the board as a whole must not, and certainly our HOA members do not and will not with a timeline like this if it is sent out.

Our Bylaws were highly affected by the new statute that came out in 2018. The new statute is 88 pages single spaced. In 2018, learning that we as an association could "opt it" or "opt out", we chose to opt out. In 2019, we saw more changes coming through in the new statute. This forced us to review and modify what we had so far. Then, when we discovered a clause that indicates that whenever pre-existing communities have something in their governing documents that is in conflict with the new law, the new law trumps. Discovering that clause, which was not easily spotted, signaled to us that we needed to add more to our governing documents. One of our main goals was to minimize confusion down the road, so more work was needed.

Hopes to vote on revisions at the annual meeting in 2019 could not be met with these obstacles. This is not mentioned in the timeline, only that in October of 2018 we hoped to be ready for member voting at the annual meeting in 2019. Obviously, this had to change.

There is more that could be said, but I will stop there for now.

I ask that the board not send out this timeline. It is faulty, and it does no good. A comment could be included in the minutes that a timeline was shared at the October 10, 2019 Board Meeting, but was found to have multiple errors, so is not being sent out. We need to look forward and make good things happen. If we don't, I fear this organization will live with the faulty documents it now has. Let's not let that happen.

If the board wants an accurate timeline, I am happy to meet with them and help put together an accurate timeline. I anticipate that this would take several hours. Is this worth our time? Please let me know.

Denae