

Loma Linda Subdivision Homeowner's Association Minutes of the Board of Director's Meeting March 6, 2017

Directors present: Bill Trimarco, Sue Wells

Members present: Kent and Sharon Jennings, Don Haywood, Farrell and Barbara Trask, Becky Endres, Rick and Bernie Sautel, Don Farr, LuAnn Fritz, Al and Jo Myatt, Lisa Jensen, Mark Douglass, Peggy Beach, Dave Parker, Robert St. Cyr.

Guest: Attorney Todd Starr

The meeting was called to order at 7:01 pm by Bill Trimarco. Agendas were distributed and a sign-up sheet passed. Bill reminded the group that this was a Board of Director's meeting. There would be time for comments, but those wishing to speak had to use the podium and state their name for the record.

- There were no non-agenda comments presented by the public.

The minutes of the January meeting were reviewed by the Board.

- A motion to approve the minutes as corrected (spelling of one name) was made by Sue Wells, seconded by Bill and approved by voice vote.

The financial reports as of February 28, 2107 (including both January and February), were reviewed by Sue.

- A motion to accept these reports was made by Bill, seconded by Sue and approved by voice vote. Full reports will be posted.

2017 Budget review:

- A motion to approve the previously proposed budget was made by Bill, seconded by Sue and approved by voice vote.

Insurance Review: The liability policy for the HOA is up for renewal in March. There have been some service issues with the current agent. After repeated requests by the LLHOA Board for action by the agent to remove certain unnecessary costs from our policy, specifically charges for roads (which the HOA is not responsible for), a decision has been made to change the agent of our policy to the Leavitt Group out of Durango. Other agencies were considered, including American Family.

Member Comment: Dave Parker asked that if a liability policy was canceled would we lose backward coverage and if we had to have a "tail" policy in place and how would we cover HOA liability. He had received a quote of \$4000 for a three-year minimum for a new policy though maintaining the existing one would be about \$900.

Board Reply: The HOA is keeping the same policy; it is only the agent of the policy that is being changed.

Member Comment: Lisa Jensen, who is an insurance agent, clarified the two types of policies that HOA's generally have: General Liability and Director's & Officers. As long as appropriate insurance was in place at the time a particular past event took place the HOA would still be covered by that policy should a claim

arise in the future. The Directors & Officers covers items based on the actions of the Board members and officers.

Board Reply: The Officers policy is not up for renewal yet, but is being looked at.

- A motion to approve switching the agent for the General Liability insurance to the Levitt Group was made by Bill, seconded by Sue and approved by voice vote.

Database: Updated address and contact information will be requested from all residents by email, through the website, and by any other means that can be determined.

Architectural Control Committee (ACC): No action over the last two months and no report.

FireWise Committee: Peggy Beach distributed copies of the March FireWise Bulletin and the Community Wildfire Protection Plan for the Loma Linda Subdivision. She stressed two important items:

1) Archuleta County has a citizen alert service in place whereby any resident (full or part time or those who rent) can register to be alerted to any emergency affecting our county. The alert can be sent to any home phone, cell phone, and/or email address (even Facebook and Twitter) once these devices are registered with the county. All of us can and should sign up using a cell phone's text service (text 888777 with zip 81147) or go online to the county website **www.archuletacounty.org** / Residents / Citizen Alert;

2) The official, signed Community Wildfire Protection Plan has been received. This is a very thorough review of the subdivision and surrounding lands and takes into consideration member mitigation of their property and many other factors. Loma Linda is registered with the Colorado State Forest Service and is in the Red Zone for fire danger. Although the report was started in 2014, it is now time to review the plan to ensure it's up-to-date and complete. This should be done annually. Anyone willing to work on the review with Peggy and Al and Jo Myatt should contact them **peggybeach9@aol.com** 264-0463 or **themyatts.co@gmail.com** 264-1125.

Loma Linda Metropolitan District report: Dave Parker mentioned the need to have up-to-date contact and address information for all LLHOA members and asked about sharing the LLHOA database with the Metro District. When Dave took over on the Metro Board he wasn't given any existing contact data. Bill stated that due to confidentiality issues the LLHOA cannot share their database. In a future mailing, residents could be asked to send contact information both to LLHOA and to the Metro District separately or a request could be included for permission to share their contact information with the Metro District; if received, LLHOA could forward that resident's contact data to Metro so that both groups have the complete data.

Election 2017: Bill reported that an issue was discovered with the returned ballots because an identifier was missing from the outside of the outer return-mail envelope. The ballot must be a secret ballot, but they have to be tracked. There

were 197 ballots sent out. Of those received, there are eight whose validity cannot be determined.

- A motion to redo the 2017 Board Member Election and negate the results was made by Bill, seconded by Sue.

The members present were asked for any comments on the redoing of the election.

Member Comment: Mark Douglass asked if a mechanism was in place to destroy the first ballot results rather than just tossing them.

Board Reply: Yes, the documents will be shred. Attorney Todd Starr stated that he would obtain all of the previous ballot documents and ensure they were shred.

Member Comment: Don Haywood asked for the Board's position on the letter from Attorney Duke Eggleston relative to the procedure for the election, the current seat of the board president which was not on the ballot, and other points that needed to be addressed.

Board Reply: Bill stated that the topic of the executive session held earlier in March pertained to the election.

Member Comment: A member asked if that letter could be read.

Board Reply: Attorney Todd Starr agreed to read the bulk of the letter from the podium and attempt to address the various association issues. In general, the letter stated that the Association needs to follow certain guidelines, some that pertain to the ballot process such as whether a ballot could be mailed or emailed; the use of a proxy or in-person vote; the issue of the current president's position being omitted from the ballot; the opinion that a vote by acclamation was not appropriate; and that all ballot seats must be on the ballot. Attorney Starr stated that the election is not held at an annual member's meeting; only nominations are made on the floor then. Ballots are to be mailed out per Bylaws.

Member Comment: Don Haywood stated that the original cover letter sent with the ballots had comments specific to two of the candidates and that it should not have had any editorialized statements; only procedure. He felt the ballot should not contain any dues notices, budget details or other non-ballot information. Don gave the Attorney a copy of the transmittal letter and email.

Todd Starr Reply: Attorney Starr agreed that it was appropriate to include the pros and cons of issues but not to offer endorsements. He offered to review any correspondence being sent out from the Board.

As to the issue of the president's term not being on the ballot, Attorney Starr stated, based on the December 5, 2015 minutes, there was intent to receive nominations from the floor, but there were none. The Nominating committee had Mr. Trimarco's name for a Board position, but no nomination was made because he was not at that meeting and those present thought a candidate had to be present in order to be nominated. A second meeting was scheduled to complete the process, but it had to be canceled due to a snow storm. At the January 11, 2016 meeting his election to a 3-year term was ratified. Attorney feels his nomination and ratification were valid. He noted there is a 90-120 day time limit to challenge a board's action, but that period has expired so no challenge is appropriate at this time. His three-year term was appropriate because the intent

was to elect him according to the minutes. Attorney Starr said that at a Board meeting if discussion 'expresses intent' then a motion isn't necessary as based on other 'solid case law'; a board doesn't have to take a vote for an action to be valid.

Mr. Starr stated that Mr. Trimarco is on the board for the full three year term.

No one present had any other comments.

- The motion already on the table to resubmit the ballot to all members had been made by Bill, seconded by Sue and now was approved by voice vote.

Comments and discussion about procedures for doing the election over:

Lisa suggested that the ballot could be printed on special type of paper to make it more identifiable as a copy if machine-copied. Another suggestion was to use a color copy ballot.

Bill said that it would take 2-3 weeks to get new ballot and cover letter materials ready for mailing.

Don suggested that all members with an email on file be contacted to be aware that a new ballot was being mailed and to notify the Board if the mailed ballot was not received within a reasonable time. It was confirmed that an email should go out. He asked if the ballots could be opened and counted at a meeting. There was some discussion regarding the bookkeeper opening and recording which lots had returned ballots in order to maintain confidentiality as to whose dues were paid, etc. It would not be proper to open and record the outer envelopes at the meeting.

Dave suggested that, as in the past, an independent witness, along with the Bookkeeper, opened and logged the ballots. Attorney Starr stated that the Bookkeeper is aware of the chain of custody and would be an independent third party. Sue and Bill mentioned that those present at the January meeting insisted that the method of having the bookkeeper count the ballots NOT be used. The board agreed at that meeting to change the previous process to allow the votes to be counted at a meeting, in front of the rest of the members. Bill stated that the board could not keep changing procedures back and forth at the whim of those present.

Don could not find in the Bylaws a section stating that dues had to be current in order for their vote to be valid. Bill said that historically, voting members had to have their dues paid, have no unpaid fines, and no liens. The Bylaws state 'member in good standing' and the Attorney will confirm what that term actually means. Dave asked if we could get a written copy of the attorney's opinions on issues discussed at this meeting. This would be an additional cost to the HOA and would need to be discussed by the Board.

Barbara Trask asked if the new ballot would contain the same letter as the original ballot. Board Reply: No. A new cover letter stating that it is a replacement ballot (redoing the election) and giving any return details, deadlines, etc. would be included.

Don stated that he was okay with the return envelopes being verified by the

bookkeeper.

Sue Wells asked if anyone else had any other questions that needed to be put to rest:

Dave Parker asked if he could have a written reply from Todd Starr to each point in the Duke Eggleston letter. Mr. Starr replied that the board would have to authorize payment for him to write up that response. Mr. Trimarco stated that the Attorney was present in order to answer any questions and offer explanations firsthand. Ms. Wells stated that the minutes would contain The Attorney's responses. There was no written response prepared beforehand and to authorize that was a separate topic that was not part of this conversation. The board stated that it could be brought up at a later date, but the priority now was to come to agreement on the election process.

Barbara Trask asked if the new ballot would go out with the same letters as the original mailing. Bill replied that there would be a new cover letter explaining the reason for redoing the election and the ballot. The budget and its explanations would not be resent.

The new return deadline would be 30 days after the ballot is sent out. Every effort will be made to get the new ballots mailed by the end of March; voting would close, at the earliest, at the end of April (April 28th). A second email encouraging all members to vote and return the ballot would be sent out. Returned ballots would be turned over to the Board to be opened and tabulated at a meeting AFTER the accountant had opened the outer envelope and determined the validity of the received ballot based on the identifier.

Member Comment: Mark wanted to confirm that an explanation would be included on the cover letter listing the points that determine a 'member in good standing'.

Board Reply: Yes, those specifics would be listed on the cover letter. Attorney Starr will review the law as to the meaning of that phrase and report to the Board.

The members present had no further comments or suggestions about the election process.

The meeting was adjourned at 8:11 pm.

Sharon Jennings, Recording Secretary