

Approved Minutes of the Regular Meeting on July 17, 2010

BLUE LAKE SPRINGS HOMEOWNERS' ASSOCIATION
MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS

DIRECTORS PRESENT: President Roy Silcox, Vice President Frank Hengel, Secretary Mary Peterson, Treasurer Ed Stahlberg and Directors Doug Rischbieter and Harry Tittle.

DIRECTORS ABSENT: Director Dave Ryniec

General Manager: Tony Abila

Assistant General Manager: Marsha Hampton

1. Member/Guest Introduction: Arthur Blevins, Lot 172, Unit 12; Larry & Marilyn Larson, Lot 119, Unit 13; Alice Hengel, Lot 127, Unit 2; Clem Martin, Lot 145, Unit 13; Barbara Guevara, Lot 206, Unit 2; Norm & Anne Friborg, Lot 785, Unit 7; Matt Salayko, Lot 114, Unit 8; Sherry Tittle, Lot 12, Unit 1; Charlotte Hunt Lot 198 & 199, Unit 13; Daniel Faulkner, Lot 26, Unit 10; Guy & Sue Pollak, Lot 840, Unit 7; Bev & John Vasquez, Lot 182, Unit 10; Don Peterson, Lot 151, Unit 11; Jim Evans, Lot 498, Unit 4; Sheila Silcox, Lot 785, Unit 7; John & Jean Harrington, Lot 202, Unit 13; Cathy Fitzpatrick, Lot 135, Unit 13; Cam Deen, Lot 135, Unit 13; Dan & Ellie Wendin, Lot 400, Unit 3; Sal & Cindy Culcasi, Lot 104, Unit 11; Jerry Hecht, Lot 704, Unit 5; Joe & Lucy Morgan, Lot 282, Unit 2; Larry & Bobbie Haskell Lot 731, Unit 5; George Paul, Lot 140, Unit 11; Dick & Claudette Lawlor, Lot 83, Unit 8; Michele Stahlberg, Lot 128, Unit 10; Alan Weissberger, Lot 102, Unit 12; Michael & JoAnn Merriman, Lot 80, Unit 12.

2. Member/Guest Forum: The following is a summary of member comments:

A member wanted to clarify that the Recall Committee to recall three Board Members, Roy Silcox, Frank Hengel and Harry Tittle, is not led by Director Rischbieter although the committee does talk to Director Rischbieter to let him know what is going on. It was stated that all emails on the recall come from the Recall Committee.

A member expressed interest in a Board Director position if the recall election results in an opening for a director position.

The recording tapes of Minutes from previous Board of Director meetings are kept a minimal amount of time and then erased.

Another member responded that Director Rischbieter announced at the Annual Meeting that he was going to recall three Board Members, so most people assumed the recall was from him.

A member asked about a meeting with the Association Attorney regarding recall elections. He wanted to know who attended and if there was a quorum of the Board?

President Silcox stated that during the member comment section of the meeting, information received is

taken under advisement.

3. Approval of Minutes:

a) Approval of Minutes for the June 19, 2010 Regular Meeting:

Director Rischbieter stated that during the June 19, 2010 Board Meeting, he submitted a June 1993 mailing to the Board Members that showed how the members and the court purposefully disassociated payment of dues and voting rights in the last revision of the CC & Rs. He did not include in his edits of the June 19, 2010 Meeting Minutes this distribution of the mailing in Version B of the minutes of that meeting and is doing so now.

Vice President Hengel made a motion to approve Version A of the Minutes of the June 19, 2010 meeting with corrections. Director Tittle seconded the motion.

Director Rischbieter stated that Version B contained other corrections that should not be lost.

Vice President Hengel responded that the corrections made by Director Rischbieter were stated as fact, when in fact they are his opinion which could mislead the reader.

President Silcox called for the vote. **The motion passed with five ayes and Director Rischbieter voting nay.**

Director Rischbieter requested that the Minutes reflex the reason he voted no. He stated that there were a couple of errors in Version A that were not corrected.

b) Discussion of approval of June 6th Minutes of the 2009 Annual Meeting:

Director Rischbieter stated that at the 2010 Annual Meeting, a motion and second was made to approve the 2009 Annual Meeting Minutes, however a vote was inadvertently not taken. He further stated that there was not a quorum at that meeting to conduct business.

Director Rischbieter made a motion to adopt the June 6, 2009 Annual Meeting Minutes with no corrections as no corrections were offered by the membership. Treasurer Stahlberg seconded the motion. The motion passed unanimously.

c) Review Unapproved 2010 Annual Meeting Minutes for corrections:

Vice President Hengel made a motion to approve the placement of the June 5, 2010 Meeting Minutes in the September/October 2010 Lodge Log with corrections. Secretary Peterson seconded the motion. The motion passed with five ayes and Director Rischbieter voting nay.

Director Rischbieter stated that his reason for voting no was that there is an omission and other corrections that could be made in a timely fashion.

4. President's Report:

a) Announcement of recall election inspectors: President Silcox stated that to his knowledge the Association

has not gone through a recall election before. He further stated, "When we received the petition we felt it prudent, we being myself, the Vice President and the General Manager to contact our attorney for guidance. The attorney responded that if a member or members request a recall election the Board is directed to conduct the election. It was my choice, rather than to hold a Board Meeting every time we needed to make a decision regarding the performance of the election, that the three of us would come to a decision on how it would be handled. We had the advice of the attorney, it was fairly clear cut. With that in mind I would like to announce the three Election Inspectors that were designated, Jerry Getty, Jeanne Multhaup and Don Shawyver."

b) Report on outcome of Small Claims Hearing: President Silcox stated that there was a Small Claims Lawsuit against the Association. The Vice President and General Manager attended the Hearing.

Vice President Hengel gave the following report on the outcome of the hearing: He reported the Judge listened to both arguments and at the end dismissed the case without prejudice. The Judge stated that he did not feel that this issue of defining CC & Rs belonged in Small Claims Court because it did have far reaching implications for a lot of other members of the Association. The Judge also stated that if the Association was going to have Members be the basis for charging assessments rather than lots, then each Member on the Deed should pay.

Vice President Hengel informed the Board of Directors that the next step before going to a higher court would be arbitration which Director Rischbieter has requested. If the solution to all sides is satisfactory the dispute is resolved. If not then Director Rischbieter has the option of going to a higher court.

Director Rischbieter informed the Board of Directors that the Association Attorney directed the Board to a section of a code of the Davis/Stirling Act which stipulates that the Board needs to appoint a director, singular.

Director Rischbieter further stated that this law suit is brought by his wife and himself as members.

Director Rischbieter stated that the Association's position at the hearing in small claims court had three legs:

1. The Claimant and the Board of Directors should go through an arbitration procedure for internal dispute resolution.
2. The Claimant was seeking declarative relief which is not appropriate for Small Claims Court.
3. The CC & Rs gives the Directors broad and sole authority to set dues.

Director Rischbieter stated, "The Association's position did not address the real points of our claims that go back to what the dues are for and other claims that we made."

c) Determine delegates regarding arbitration letter received: President Silcox reported that the Board of Directors received a letter from Douglas and Janet Rischbieter requesting that per Civil Code 1363.840 the Board designate a member of the Board of Directors to meet and confer with Mr. & Mrs. Rischbieter and upon concurrence of the Board, the Board would authorize that delegate on the Board's behalf that could bind the Board to a reconciliation. On the advice of the Attorney, the Directors will appoint a delegate in open session.

Vice President Hengel stated that since this request is brought by two members, Douglas and Janet Rischbieter, it would behoove the Board to have more than one Director which would stand a better chance of possibly reaching some conclusion.

President Silcox suggested having a primary and alternate delegate just in case the primary could not attend then the other could step right in.

Director Rischbieter agreed with this scenario.

President Silcox nominated Vice President Hengel as the principal delegate and Treasurer Stahlberg as the alternate to represent the Board at the arbitration. Director Tittle seconded the nomination.

President Hengel stated that any agreement in arbitration would be brought back to the Board for ratification.

President Silcox called for the vote. **The motion passed with five ayes and Director Rischbieter abstained.**

5. General Manager's Report:

a) Operations Review: Manager Abila gave the following report:

A member sent a letter with his evaluation and recommendation regarding payment of dues on multiple owned properties. President Silcox suggested sending this member the same response that went to other members asking this question, "That according to the Association's Attorney and CPA, all lots pay dues."

A member requested that the May 15, 2010 Minutes be changed to reflect the discussion of responding to membership correspondence. The Board agreed that, in fact, this was not discussed at the May 15th Meeting and to change those Minutes would be inappropriate. It was acknowledged that this issue was discussed at the June 17th Meeting. Director Rischbieter stated that the member received incorrect information about what transpired at the May Meeting and the Board apologizes for the misunderstanding.

Bids for a new safe was presented.

Director Rischbieter made a motion to approve the bid of \$731 for the purchase of a new safe. Treasurer Stahlberg seconded the motion. The motion passed unanimously.

The Association has received a letter from the Department of Justice's Public Inquiry Unit. A notice of complaint has been filed. Unfortunately management is unable to respond at this time due to the fact that wrong information was sent regarding the alleged complainant. Management has responded requesting the correct information from the Public Inquiry Unit.

A petition to recall three Board Directors was presented. On July 13, 2010 a qualified number of recall petition signatures had been received and verified.

There was a lengthy discussion on when notification of the recall of the three Board members should go to the membership. The recall committee will contact management to determine the date of the notification.

b) Fly in Lake footbridge: Work will begin at the end of the summer season.

The association was reimbursed by the insurance company for the totaled utility trailer.

A routine restaurant health inspection was conducted and the Association received an excellent report. Also the routine pool health inspection was conducted and passed.

The July 4th BBQ was a sellout. The option of a half rack was well received.

There were approximately 500 more people at Fly in Lake over the July 4th weekend while the Lodge Lake facility numbers were similar to last year.

The pool heater was repaired right before the July 4th weekend.

The pool has been shut down seven times this year due to feces in the pool. It is difficult for the staff to enforce swim diapers, even though the diapers are mandatory.

6. Financial report: Treasurer Stahlberg gave the following report:

a) Financial Review for the six months ended 6/30/10: Income for the month of June and YTD showed an additional amount collected for Family Passes of \$1,700 however YTD income from Family Passes was \$4,000 or 15% less than last year. Total Recreation income was down about 35% for June and 33% YTD.

Total Restaurant income was down \$7,000 or 43% for June but this is partly due to \$2000 of June income that was posted in July. Snack Bar income was also down 33%. The poor economy may be a factor in the consistently lower income in all departments. We are not unique as other businesses are showing the same decline. On a brighter note, the July 4th BBQ was very successful.

Another factor affecting our income is the increasing number of delinquent dues this year from past years. The number of uncollected dues will affect our budget in 2011.

Administrative expenses were down \$4,600 or 18% for June and \$17,437 or 11% YTD. However it appears most of these savings will be eliminated in the next few months due to substantial additional printing, mailing and legal fees associated with a number of actions now taking place.

Maintenance expenses for Fly In Lake are \$3,000 or 108% over budget and \$3,300 or 80% over budget for Lodge Lake. The additional expenditures were attributed to the following: Additional sand was needed at both lakes due to the late storm wash-outs into the lakes; there was drainage culvert work at Lodge Lake; and substantial tree work.

Overall, for June, total income and expenses were within \$100 of budget. For YTD, total income and expenditures were within budget by about \$3000 keeping the Association within its overall budget.

b) Review status of 2009 Audit Report: The Audit Report was received on July 9, 2010 and is in the process of being reviewed. The Audit Report will be discussed at the next Board Meeting.

7. Committee Reports:

A. Finance: No report.

B. Summer Recreation: Already reported under Manager's Report.

C. Winter Recreation: No report.

D. Personnel: No report.

E. Architectural Review:

a) Status of ARC reviews: There were three requests for review. One request is pending BLSMWC approval. The other two requests for review have been completed.

Director Rischbieter made a motion that the Board appoint Bob Asher and Dick Lawlor to join Vice President Hengel on the Architectural Review Committee. Vice President Hengel seconded the motion. The motion passed unanimously.

F. Facilities: Treasurer Stahlberg reported that a walk through of the facilities will take place in the next month. He also reported that Guy Pollak has joined the Facilities Committee.

G. Long Range Planning: Manager Abila reported that the concept drawing plans from the architect for Fly In Lake and Lodge Lake were received.

H. EPPOC: Director Tittle reported that the new Sheriff Elect Gary Kunz reported that there will be Resident Deputies assigned to Arnold.

I. Tax Exempt: No report.

8. Old Business:

a) Conduction of Recall Elections: Director Rischbieter asked if members with delinquent accounts were sent ballots for the Election to recall Director Rischbieter. Manager Abila responded that delinquent accounts were not sent ballots. Director Rischbieter asked if the same protocol will be followed for the next Recall Election. Manager Abila responded that the same protocol would be followed.

b) Change May 2010 Minutes to reflect Member request: This issue was discussed under Manager's Report. The Board had decided that the Minutes will not be changed. Director Rischbieter explained that the topic was not discussed during the May meeting but was discussed at the June meeting and was addressed in the June Minutes.

9. New Business:

a) Discuss Propriety of Association's Referral of Contractors and Businesses: Director Rischbieter explained that a local contractor questioned the propriety and liability to the Association when the Association provides a list of contractors to members upon request. The list contains unlicensed and or uninsured contractors. Vice President Hengel requested that this issue be brought back at the next Board Meeting.

10. Member Comments/Forum:

A member requested that the Board consider separating the baby pool from the regular pool due to the contamination from babies without swim diapers resulting in numerous pool closures this year.

A member asked the disposition of his recommendation to forward his letter on Tax Exempt status to” the tax exempt person who is investigating that.”

President Silcox responded that the Tax Exempt Committee was formed to determine what, in the Association’s governing documents, may be questionable. Those findings will be forwarded on to a CPA or Tax Attorney requesting a professional opinion as to whether or not the Association needs to change its tax status.

The member clarified that his question was whether the dues policy this year was not in violation of an IRS publication in his possession and it should be reconsidered.

President Silcox responded that the governing documents establish that the Board may assess dues and that this member’s recommendation that the dues assessment policy be reconsidered is taken under advisement.

A member asked for clarification in the Treasurer’s report pertaining to the revenue for the restaurant.

Treasurer Stahlberg responded that his main concern was whether the revenue from the restaurant was unique to Snowflake Lodge or is the decrease in revenue happening throughout the community.

President Silcox in response to a member’s statement that “there is a rumor that dues will be increased next year,” stated that there had not been a meeting of the Finance Committee to determine next year’s budget so any rumors are just that.

A member expressed his concern about a house next to Fly In Lake that could potentially contaminate the lake if the owner does landscaping and chemicals leach into the lake.

A member stated that correspondence from members to the Board should remain confidential unless that member specifically asks that their correspondence be made public.

11. Correspondence:

a) Discuss making public, member correspondence: President Silcox stated that correspondence from members could be summarized without identifying the member.

Director Rischbieter stated that if a member requests to see correspondence to the Board from another member, there must be approval from the author.

12. Adjournment: President Silcox adjourned the regular meeting at 11:35 a.m.

13. Closed Session:

Director Rischbieter recused himself from the Closed Session.

a) Review of Law Suit: The Board discussed the pending arbitration.

Respectfully submitted,
Marsha Hampton, Recording Secretary
Approved for Posting: August 21, 2010