

Bylaws Committee

Weekly Meeting Minutes

October 27, 2020
9:03 am – 11:01 am

- I. Call to Order: The meeting is called to order by Chairperson Belinda Belvin at 9:03 am.
- II. Roll Call: In attendance are: Belinda Belvin, Larry Hembree, Kim Macaulay, Jay McClure, Pat Neville, Beth Patterson, and Daniel Strickland. A quorum is present.
- III. Minutes: The minutes from 10/20/20 are presented by Kim Macaulay, Secretary. Kim makes a motion to waive the reading of the minutes and to approve the minutes. Pat seconds the motion, a vote is held, and the motion passes with 6 yeas and 1 not present.

(Larry Hembree joins the meeting)

IV. Old Business

a) Article XII section 7 - Treasurer

- Belinda has rewritten Dan's motion from last week and has recently submitted it to the current Treasurer for verification of accuracy. She is awaiting their reply. Revisit on 11/3/20.

b) Article XV, Section 2

- Jay makes a motion to set the annual increase at a flat rate percentage per year with the ability to accrue years when an increase is not taken. Beth seconds the motion. During discussion it is suggested to remove the accrual aspect. Jay agrees to the amendment. Beth seconds the amended motion. After further discussion, a vote is held and the motion passes with 6 yeas and 1 nay. The final wording is: "The annual dues may be increased by no more than X% per year."
- Jay makes a motion to set the annual increase at 6%. Beth seconds the motion. After discussion of percentages, it is suggested to amend the percentage to 5%. Jay agrees to the amendment and Beth seconds the amended motion. After further discussion, a vote is held and the motion passes with 4 yeas and 3 nays. The final wording is: "The annual dues may be increased by no more than 5% per year."

c) Article XII, Section 1

- Belinda makes a motion that the Secretary and Treasurer are not required to be members of the Board”. Dan seconds the motion. After discussion, a vote is held and the motion passes with 5 yeas and 2 nays. The final wording is: “The Officers shall be a president, vice president, secretary, treasurer, and any other Officers deemed necessary. The Secretary and Treasurer are not required to be members of the Board.”

d) Article XV, Section To Be Determined.

- The Committee reviews Beth’s revised wording on dispute resolution:

Section 1: Internal Dispute Resolution (IDR).

When there's a dispute, the Association board must provide the property owner an opportunity to meet and confer with the board. Members must be provided with a fair, reasonable and expeditious procedure for resolving disputes with the Association without being charged a fee.

The board will appoint one, possibly two board members, to meet with the homeowner in an effort to resolve the issue. The homeowner can refuse to meet but the board cannot. The parties can choose to have legal counsel present, but at their own expense. If an agreement can be reached it's put into writing and signed by the homeowner and the board member appointed.

Section 2: Alternative Dispute Resolution (ADR).

When the IDR process does not work, the Association board will attempt to resolve problems by using a three-step, problem-solving approach (ADR).

a. Negotiation.

1. This is an informal cooperative process in which the board and property owner identify the issues, discuss settlement options, and establish final terms.
2. A written agreement, outlining final terms, signed by the Board President and the property owner, will be prepared and copies provided to both parties.
3. Each party will bear all of its own costs incurred prior to and during the proceeding, including fees of an attorney.

In situations where a solution can't be found, the second step is mediation.

b. Mediation.

1. This process involves a neutral, trained mediator who will resolve conflict between the Association and the property owner.
2. The parties involved create their own settlement agreements, which are not legally binding unless everyone agrees to formalize them.
3. Each party will bear all of its own costs incurred prior to and during the proceeding, including fees of an attorney.

In situations where a settlement agreement is not reached, the third step is arbitration.

c. Arbitration.

1. This is a formal out-of-court process which involves an arbitrator who is usually a highly trained legal expert.
2. Each side will present relevant evidence and mediator will render a final, written legal decision, which cannot be appealed.
3. The prevailing party will receive from the non-prevailing party, all of its costs and expenses, including expert and attorney's fees, incurred from commencement of selection of the arbitrator to the issue of the award.

Section 3. Exempt Claims

The following claims are exempt from the provisions of Section 1 and 2:

- (a) Any suit by the Association against any party to enforce any assessments or other charges.
- (b) Counterclaims brought by the Association in proceedings instituted against it.
- (c) Actions brought by the Association to enforce written contracts with its suppliers and service providers.

Article ?: Litigation

When the Alternative Dispute Process is unsuccessful, civil litigation may be the next step in resolving conflict.

Section 1. Member Litigation

1. A member may not file an enforcement action in the Court unless the parties have endeavored to submit their dispute to alternative dispute resolution.

Failure of a member of the Association to comply with the ADR requirements of Section 2 may result in the loss of the member's right to sue the Association or another member of the Association.

2. If a member brings any legal action against the Association, or any officer or Director of the Board, and the member does not prevail, the Association and/or Officer or Director, as the case may be, shall be entitled to recover from the member its or their reasonable expenses of litigation, including attorney fees.

3. The Association may suspend the privileges of membership if the member fails to pay these costs.

Section 2: Association Litigation

The Association has standing to institute, defend, settle or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name, without the members, matters pertaining to the following:

(a) Enforcement of the governing documents.

(b) Damage to a common area.

(c) Damage to a separate interest that the Association is obligated to maintain or repair.

In an action to enforce the governing documents and any matters pertaining to damages to Association property, the prevailing party shall be awarded reasonable attorney's fees and costs.

Before a formal motion can be made several changes are requested. Revisit on 11/3/20.

V. Adjourn: The meeting is adjourned at 10:59.