

SAN ELIJO HILLS HOMEOWNERS ASSOCIATION, INC.
PO BOX 232, SOLANA BEACH, CA 92075

BOARD OF DIRECTORS' MEETING MINUTES

WEDNESDAY, MAY 5, 2021

6:30 p.m.

There was no Executive Session. The regular meeting was held telephonically.

Present: President Klein, Vice President Palacio, Secretary Basore, Treasurer Costello, Directors Allen, Stang and Bisserier

Also Present: Recording Secretary Quay, Members, Slope Committee Member Sandy Punch

- I. Call to Order:** The meeting was called to order at 6:35 p.m.
- II. Establish Quorum:** A quorum was established.
- III. President's Remarks:** President Klein called the meeting to order in the usual manner where we celebrate our individuality but mindful that we make decisions in the best interest of the community and try to have a little fun in the process. Before launching into the agenda, President Klein requested the following remarks be included in the minutes.

"First, I want to apologize for the disclosure of the HOA Homeowners' email list to everyone on the list. This mistake was made by me when I sent the April 12th email and failed to send it blind copy. Unfortunately, a homeowner used that information to send an unauthorized email that sparked several responses. Again, I apologize for this oversight and the only solution I can offer is to block the senders email address. Tomorrow I will send an email to all homeowners on our list and apologize for my email address mistake and request they trash the email address list out of respect for fellow homeowners who did not want their information disclosed. In addition, I will include a copy of the remarks made tonight along with a status update on the PC&R and Bylaws project.

The Preamble in the PC&Rs that were established October 31, 1973, state, *The Intent and Purpose of this document is to preserve the inherent natural beauty of our area and to foster in the community of Lomas Santa Fe, the blending of nature's attributes with man's desire for a better place to live.*

The quality of any development is dependent on the people and their attitudes towards the community in which they live. Covenants of this type are directed towards creating an environment in which people will be proud to buy a home and raise a family. Lomas Santa Fe is destined to become one of the finest residential communities in Southern California, and the development of these Covenants is directed towards that goal.

I contend the founders of Lomas Santa Fe succeeded in creating an environment in which *people are proud to buy a home and raise a family and that Lomas Santa Fe is one of the finest residential communities in Southern California.*

The founders of Lomas Santa Fe were visionaries and realists because they recognized the quality of any development is dependent on the people and their attitudes towards the community in which they live. They knew that even though buyers signed documents during Escrow that states the Property is part of a planned unit development known as San Elijo Hills Homeowners Association and owners have an obligation to comply with the PC&Rs some individuals would create divisions in the HOA. There is divisiveness in all HOAs. Thankfully, for the last 48 years a good number of homeowners in our community have volunteered their time and energy to serve on the HOA Board and sustain the vision of a community

in which people will not only be proud to buy a home and raise a family but feel they are part of a community that knows and cares about their neighbors.

The project to update the PC&Rs and Bylaws started almost two years ago and has generated a good amount of interest and input from homeowners. A number of homeowners are under the misconception that updating the PC&Rs and Bylaws provides an opportunity to restructure them to support their personal agendas.

Tonight, the Board will review and approve the revisions to the PC&Rs and Bylaws that were made because of homeowner suggestions or comments. There are two suggestions that I want to speak about before we continue.

The first suggestion is for the present Board to resign, and a new association could be created by whichever homeowners would like to participate in it and that they could live under whatever rules and regulations they create. This ignores two important issues. First, the PC&Rs are equitable servitudes that run with the land. The PC&Rs would still exist whether the corporation has a Board of Directors or not. Owners would still have an obligation to enforce the PC&Rs against each other, whether the Association has any Board members. Second, even if all Directors resigned, the corporation would still exist. Corporations Code Section 8724 prohibits the dissolution of the corporation without the approval of 100% of all members. In any case, even if all Board members resigned, the homeowners could call a special meeting of members to fill their vacancies. Alternatively, if the corporation stops complying with the law, a member could file a complaint with the attorney general, who could bring a court action to appoint a receiver or otherwise take control of the Association's corporate affairs, all at the members' expense. Creditors could continue to hold the Association liable for debts and could also seek appointment of a receiver, again at the expense of all members. So, if all Directors resigned, the Association would continue to exist and conduct business just at a greater expense to the members.

The second suggestion is based on a concern about intermingling private property ownership with HOA maintenance of slopes. The assertion is that maintaining the slopes on an owner's property exposes the Association to liability. In fact, failing to maintain the slopes in compliance with the governing documents could certainly expose the Association to liability. The slopes are an integral part of the defensible space for preventing the spread of fire through the neighborhood including the roofs and eaves of homes of owners that do not own slopes. Poorly maintained slopes with dead or dry vegetation are a fire danger to all homes and would be a liability for the Association. Everyone benefits from healthy slopes and trees being monitored and kept healthy or removed. The governing documents for homeowner associations routinely require associations to maintain portions of lots owned by their members. There is nothing unusual or unlawful about that."

President Klein then thanked Ray and Sally Fisher for their timely comments some of which are included in the above text.

IV. Approval of the April 7, 2021 Minutes: The minutes were approved.

V. Member Input:

- A.** A member asked for more information on the Knapp/Katz lawsuit. President Klein summarized the lawsuit and Secretary Basore read from the Board minutes of June 20, 2019.
- B.** A discussion ensued about members whose dues are paying for irrigation and maintenance of the slopes but receive no benefits from the slopes. Member Gordon read from the Board minutes of May 6, 2020 regarding homeowner insurance and liability of the slopes. Other members believe that the entire community benefits from the slopes.
- C.** Several members spoke about changing the voting rules and eliminating the HOA altogether which is an option discussed in the President's remarks, Section (III).
- D.** A member suggested a HOA bulletin board to post comments and suggestions.
- E.** President Klein introduced the HOA's legal advisor, Attorney Karen Marco who explained the voting requirements in the PC&Rs. She stated that although it is a right and members have

good intentions, often they don't get around to voting. So the higher the approval requirements are, the less likely the association is to get approval and holding another election is costly. However, the HOA can go to court and get a decision. The way the PC&Rs are currently drafted, a quorum is more than 50% of the homeowners and 67% of the voters have to approve the PC&Rs in order to get them approved. The fewer votes required, the fewer opposing votes needed to defeat the item. The outcome should reflect the owners who take time to vote.

In regards to the slopes, she said that it is very common for an HOA to be responsible for the median strips. It is clear that there is an agreement between the City of Solana Beach and the HOA so it is unlikely the HOA can back out of the agreement and it is questionable if they could even take that action. She recommended anyone interested in pursuing this issue, talk with experts about the pros/cons and market values. President Klein said that, in the past, the community voted on three occasions to maintain the slopes. Member Gordon asked about the risks to the homeowners if there was a lawsuit. The attorney replied that there is always a risk, but it depends on the circumstances and insurance coverage.

VI. Old Business:

- A.** Outreach to neighbors interested in running for the Board of Directors: Director Allen said that he hasn't had any input from members who want to run. President Klein said that the Board will be poled to see who wants to run for another term.
- B.** Insurance coverage for non-existent common area: President Klein spoke with the insurance company about removing the language in the HOA's policy for the common area. The insurance company will get in touch with the carrier and he will follow-up.

VII. Committee Reports:

- A.** Architectural & Planning Board – Requests received and approved: No report.
- B.** Slopes Committee: Director Stang gave the update.
 - (1)** Corrections to slope maintenance map: The HOA has no control over a slope area inside a private fence. Therefore the map will be redrawn to remove those fence areas from the map. Exhibit B in the restated PC&R's.
 - (2)** The clean-up under the high wires was completed. The committee thanked Sandy Punch for her help.
 - (3)** Debris removed on the slopes behind 507 Santa Victoria.
 - (4)** Removed landscaping materials and tools on slopes behind 1211 Santa Luisa.
 - (5)** Santa Camelia irrigation upgrade set to begin early May.
- C. Program & Social Committee:** Director Bissier reported that she met with two new residents and another escrow closed this week. She said that the maximum number of people meeting at the Golf Course is fifteen. Therefore the Annual Meeting will likely be held telephonically.
- D. Membership Committee:** No report.
- E. Ad Hoc Committee on Updating the PC&R's:**
 - (1) Homeowner feedback received thus far:** Secretary Basore made a motion to accept the mark-ups on the PC&Rs as had been posted previously on the HOA's website. Motion was seconded by Director Bissier and passed by a vote of 6/0. Discussion ensued. President Klein said that the documents with changes will remain on the website but the Board will not put them to a vote of the homeowners until we hear back from the attorney. The majority of the input was considered and many changes were made but members still have time to suggest changes. He suggested doing a summary on what has changed from the old documents to the new ones after the attorney reviews it.
 - (2) Four-question survey responses received thus far:**

- (a) Paint Color: There were 52 responses. (See current palette of pre-approved colors in Policy Manual Section 3). 69.2% said to allow the pre-approved colors and also allow other exterior colors to be approved by the Architectural Committee with front door color unrestricted. 30.8% thought color selection for exterior surfaces should NOT be subject to approval by the Architectural Committee.
- (b) Signs: There were 50 responses. 78% said there should be HOA restrictions on signs. 22% said there should NOT be any HOA restrictions on signs.
- (c) Roofs: There were 52 responses. 55.8% said the roof pitch must be between 3 in 12 and 5 in 12. Flat sections may be approved by the Architectural Committee for small accent features. 44.2% said the PC&Rs should not restrict roof pitch.
- (d) Lot Coverage: There were 51 responses. 60.8% said not more than 50% of any lot may be covered with structures or impervious paving materials. 39.2% said there should NOT be any HOA restrictions on lot coverage.

(3) Approve document modifications derived from homeowners' feedback: President Klein made a motion that was seconded by Secretary Basore to post all homeowner feedback on the website. The motion passed by a vote of 5/0/1 Director Palacio abstained.

(4) Approve legal review of modified documents. As stated in Section VII (e)(1), the Board will not put the PC&Rs to a vote of homeowners until they are approved by the attorney.

VIII. Financial Report:

- (1)** Update on electronic invoicing: Paper invoices were mailed to 17 members. Two members owe money and there is a lien on the one of those properties for over \$5,000.
- (2)** Review proposed 2021-2022 budget: The Board discussed the proposed budget that reflects a 7% increase
- (3)** Discussion ensued regarding Director's and Officers Insurance. The Board will maintain \$20,000 for DO insurance.
- (4)** The cost of water is increasing and the 2021-2022 budget reflects an increase.
- (5)** Discussion ensued about replenishing the reserves. Treasurer Costello suggested putting \$1,000 into the Reserves every month until the \$10,000 goal is reached.
- (6)** To-date the HOA has \$104,946 in checking and \$12,275 in savings.

IX. New Business:

(1) Vice President Palacio apologized and said that, due to his business commitments, he can't attend lengthy meetings. President Klein said that usually the Board meetings last about 1 ½ hours.

(2) Set a date for the Annual meeting: The Board set July 14, 2021 for the Annual meeting.

X. Adjournment: The meeting adjourned at 9:30 p.m. The next meeting will be held on June 2, 2021. President Klein thanked the Board for all their work. He said that if the PC&Rs don't pass, the Board will go forward, maintain the slopes and enjoy the community. However, if the members' questions have been answered he believes the new/revised documents will pass.