

ARROWCREEK HOMEOWNERS' ASSOCIATION
Approved BOARD OF DIRECTORS MEETING MINUTES
JUNE 9, 2015

The meeting started with the Pledge of Allegiance.

CALL TO ORDER, ROLL CALL & QUORUM, INTRODUCTIONS

The board meeting of the ArrowCreek HOA was called to order by Sam Fox, President, at 5:30 PM at The Club at ArrowCreek, Reno, Nevada. Proof of notice of the meeting was sent to all owners on 5/22/15. A quorum was established with 4 of 7 board members present:

Board Members Present:	Sam Fox, President Robin Rakusin, Vice President Alan Liebman, Treasurer John Krisch, Director
Board Members Absent:	Charlie Dickinson, Secretary Steven Elliott, Director Joyce Seelen, Director
Others Present:	Jeanne Tarantino, PCAM – Associa Sierra North Jeff Anderson, AC Operations Manager Rick Reyome, Security Director
Owners Present:	25 owners signed in as present for the meeting

HOMEOWNER COMMENTS

S. Duncan, 3363 Nambe Drive – A rebuttal to “Opinion Regarding Rules of Order Update”. A written statement by Don Smaltz, 1398 Amado Court, who could not attend, was read into the record by S. Duncan. Attached as Addendum A to these minutes.

L. Smaltz – Read her opinions about how the board handles golf and on the Robert’s Rules legal opinions. Attached as Addendum B to these minutes.

R. Duncan –The Concerned Neighbors of ArrowCreek posted its own property value study; The Analysis of Golf Course Closures on Golf Trends, completed by UNR. A copy was provided for posting on the AC website.

ACCC & COMMUNICATIONS COMMITTEE UPDATES

ACCC Committee – Update by Sam Fox. The HOA is looking at the option of the HOA buying the golf course and leasing it to an entity to run. The holdup has been getting financials from Arnold Palmer Management and FOA. The information should be forthcoming and digested within a month or so. The board will come up with proposals for the options. The ACCC Committee has been working with the Governing Documents Committee on revisions to the CCRs for basic updates needed to bring the documents current. In addition they will look at what changes might be needed for golf. It is the intention to find options that will not change the HOA’s nonprofit status. The board is aware that the process is taking a long time, but its important that all the research and facts be obtained.

Communications Committee – Presented by Norm Reeder. The Committee is working on evaluating structures for informational meetings and ways of communicating with the Members on important HOA matters. They are investigating ideas for programs & presentations for the community. It was asked, how much was spent on the demographic survey? The board approved \$5000 for the all the studies. There was a research study presented electronically at \$2000. The second project was the demographic survey at \$2000. There was a \$400 cost for the presentation of the demographic survey at a board meeting. The total spent was \$4400. The Committee made a

recommendation to the board to appoint new member Jeff Foster to the Communications Committee to replace Elizabeth Heaven.

MOTION: S. Fox moved to approve the appointment of Jeff Foster to the Communications Committee. R. Rakusin seconded. No discussion. The motion carried by unanimous vote.

MINUTES

Review of the April 14, 2015 board meeting minutes. There was one typo correction on page 5 “ready” should be “read”.

MOTION: R. Rakusin moved to approve the board meeting minutes of 4/14/15 with the correction. S. Fox seconded. No discussion. The motion carried by unanimous vote.

FINANCIAL REPORTS

Budget & Finance Committee Report – A. Liebman presented the committee’s financial presentation. It included the 12/31/15 audited financial report from McClintock Accountancy and the 4/30/15 unaudited financial report by ASN. The presentation, audit and April financial report are all posted on the AC website. *Note: The Board President and Treasurer have been provided with current reconciliations of the operating and reserve accounts and the latest account statements prepared by the financial institutions in which the accounts of the association are maintained. The financial reports also include the current year-to-date financial statement of the association, and current year-to-date schedule of revenues and expenses for the operating and reserve accounts. The entire board has been provided with the Balance Sheet and Income Statements.*

2014 Audit – McClintock Accountancy gave a clean opinion on the 2014 financials. They reported that the management company had excellent controls in place. The funds, assets and variances were presented. An extra \$700,000 was spent in 2014 on road work to take advantage of better prices. (The Auditors presented the draft report to the budget committee on 4/21/15. The BOD unanimously approved the 2014 Financial Audit prepared by McClintock & Associates via a unanimous email vote on 4/27/15 per the recommendation of the budget committee).

April 30, 2015 (unaudited) Financial Report – The presentation included a review of the liabilities, equities, significant variances and a summary delinquency report. The HOA actively pursues delinquent accounts. The reserve fund is building through 2015 (to be spent on large road projects in the coming years). Q. Are there any expenses not in the budget? No.

MOTION: R. Rakusin moved to ratify the approval of the 2014 Financial Audit prepared by McClintock Accountancy. S. Fox seconded. No discussion. All in favor, the motion carried by unanimous vote.

MOTION: R. Rakusin moved to accept the 4/30/15 un-audited financial reports as presented by Associa Sierra North. S. Fox seconded. No discussion. All in favor, the motion carried by unanimous vote.

Reserve Committee Report – Presented by Gary Smith. The HOA is responsible to maintain all existing assets. He briefly summarized the issue of the “shrinking” asphalt in ArrowCreek that is now being replaced. The tennis court surfaces are made from the same shrinking asphalt and are scheduled to be replaced this year. The HOA has been patching annually. To keep the courts usable during peak season the replacement will go through next year. It was re-stated that tennis courts are for tennis use only. A recommendation will be presented to add 10 foot fencing to keep the courts safe. Consideration of adding keycard locks to the courts and/or cameras was also brought up. The Reserve Committee is recommending approval of the Annual Reserve Study Update Proposal (for 2016) with Browning Reserve Group for \$400.00 (this is approved budget item).

MOTION: R. Rakusin moved to approve the 2016 Reserve Study Update Proposal with Browning Reserve Group for \$400.00. S. Fox seconded. No discussion. All in favor, the motion carried by unanimous vote.

STAFF & COMMITTEE UPDATES

Operations Manager Report (Jeff Anderson). Jeff reported on the 2015 road work. The entire ArrowCreek

Parkway loop will be micro-surfaced (slurry sealed). A plan has been developed to keep traffic flowing by using a one-way strategy causing minimal delays. The project is currently scheduled towards the end of June and it will be a 2-day project, weather permitting. The new micro-surface material will cure quickly, within a few hours. Selected residential streets and the fire roads are also being slurry sealed.

Security Department Report (Rick Reyome). Thanks the residents for their efforts in the community. The transition from spring to summer has been smooth. Violations are down thanks to the residents. There are still quite a few people running stop signs, and enforcement efforts are being increased. Speeding has dramatically decreased over last year; again thank you to the residents. Captain Meyer of the Washoe County Sheriff has retired. There is a new Captain available to meet with ArrowCreek security weekly. Rick also thanked Jeanne and the ASN staff. There was one burglary recently reported, it was an inside job (that is all that can be said). Audience comments were made about allowing cyclists inside the community. ArrowCreek is required to let cyclists in per the original development agreements. Comments were also made about vehicle rolling stops, or not stopping at all and the need to enforce.

Safety Committee (Mary Steele). 1) The Committee went back through the Elite Safety report recommendations from 2011. Some recommendations had already implemented. The Committee asked Elite Safety for their opinion on what further should be done. Since the radar signs have been installed the speeds have been reduced. Elite does not see the need to implement additional recommendations at this time. 2) The Committee also looked at CPR Classes. If there is enough community interest the HOA will try to provide a class at a low cost. 3) The Granite Pointe intersection was researched for safety. It was determined that the existing trees do not impact visibility. No action required at this time.

ADRC Committee (John Krisch). A Committee appointment will be recommended at the next meeting to fill the position of a resigning member.

Administrative Committee (Forrest Patin). The Committee is in charge of reviewing all contracts. They are looking to add about 3 more members; they recommend the appointment of Margaret McConnell and Yvonne Bates at this time. The Committee wants to create a strategic plan (like the report Somersett put together). They plan to work with the Operations Manager on HR items.

MOTION: R. Rakusin moved to appoint Margaret McConnell and Yvonne Bates as members to the Administrative Committee. S. Fox seconded. All in favor, motion carried by unanimous vote.

Governing Documents Committee (R. Rakusin). The Committee is close to having a final draft of the revised Bylaws and CCRs. The Committee discussed the recommendations submitted by homeowners at a previous board meeting. It was agreed that the HOA should not make changes to be even more restrictive. Therefore, the homeowner recommendation was not included. The Committee recommends the appointment of new member Tom Motherway. He represents the FOA and is an attorney.

MOTION: R. Rakusin moved to appoint Tom Motherway as a member to the Governing Documents Committee. S. Fox seconded. All in favor, motion carried by unanimous vote.

Fuels Management Committee – It was approved in the Fall of 2013 to hire Rodd Rummel for oversight of the fuels management project (he was a sole source vendor). However, an agreement never got signed. A formal contract was submitted for signature for fuels management oversight services with Rodd Rummel at the original quoted amount of 14% of the project total. Rodd Rummel requested sealed bids for the herbicide (weed abatement) portion of the project for the board to open and decide on. Two bids were received: 1) B's Pest Control \$1620; 2) Jobs Peak Weed Control \$750.

MOTION: R. Rakusin moved to ratify the Fuels Management Oversight Agreement with Rodd Rummel for 14% of the project total (\$15,967.98). S. Fox seconded. No discussion. All in favor, motion carried by unanimous vote.

MOTION: S. Fox moved to approve the lower bid of \$750 with Jobs Peak Weed Control. R. Rakusin seconded. No discussion. The motion carried by unanimous vote.

OTHER BUSINESS

ROBERT'S RULES – The concern came up at the February meeting about the board's authority to adopt a "Parliamentary Procedure" for board meetings. The board obtained a legal opinion dated 3/3/15 to clarify the policy was adopted in accordance with the law and Robert's Rules.

At the April board meeting the legal opinion was challenged. An "updated" opinion was obtained dated 5/19/15. It again confirmed that the parliamentary procedure adopted by the board is appropriate and compliant with Nevada Law. Both opinions are posted on the AC website under governing documents. It was also stated that per NRS 116.31085 (1) a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. **The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.** A 3 minute time limit is standard in the Nevada HOA industry.

SUMMARY OF EXECUTIVE SESSION BOARD MEETING HELD PRIOR TO THE REGULAR SESSION:

Meeting highlights from 6/9/15:

- Approval of the 4/14/15 executive meeting minutes.
- There were 5 violation hearings scheduled; 3 speeding, 1 dog barking and 1 modification without approval.
- There were no appeals.
- Review of Delinquency & Collection Reports for assessments and fines. There are 2 accounts on HOA payment plans and 4 accounts in the final warning status (next step is collections or payment plan).
- There are 7 accounts in collection of which 2 are on payment plans. There is one collection legal action pending.
- In 2015 YTD Alessi Koenig has collected \$8,294.79 for the HOA.
- Bad debt write-off: None at this time.
- Review of Violation status reports; Summary count report and open violation report. YTD 2015, there have been a total of 182 violation records (58 for speeding) and 189 Architectural records created.
- Legal: Discussion of current legal collection matters (attorney client privilege)

HOMEOWNER COMMENTS

Cory Meeder, 6205 Elk Ivory. AC has extensive landscaping throughout but not in his area. He would like to propose, that to remain consistent with landscaping throughout the community, and for privacy, as well as beauty and a wind break, additional landscaping should be added to an area of 420 feet between Sierra Mesa and Elk Ivory.

Kendrick Bratcher – Asked about guest passes at the pool. The HOA does not issue guest passes. Guests must be accompanied by a resident.

G. Smith – The Nevada legislature just ended, what is the final update on taking the 9 months super priority away from HOAs? It died in committee.

ADJOURNMENT

MOTION: S. Fox moved to adjourn the meeting. R. Rakusin seconded. The meeting adjourned at 7:27 PM by unanimous vote.

Approved by:

Respectfully Submitted by:

Jeanne Tarantino, PCAM
Associa Sierra North

ArrowCreek HOA Board Member

ADDENDUM A - Homeowner Comment by Don Smaltz (Page 1 of 3)

DON SMALTZ
1398 Amado Court
Reno NV 89511

June 9, 2015

TO: THE ACHOA OFFICERS AND BOARD OF DIRECTORS

I regret that I am unable to attend this evening's board meeting, due to a prior professional commitment in Carson City.

Today I was referred to the ACHOA website where I viewed an opinion letter posted yesterday and dated May 19, 2015. It is from the Board's firm of lawyers, addressed to the Board of Directors entitled, "Re: Opinion Re Rules of Order [Update]." I request that you consider the following as my rebuttal to that letter.

1. To my personal knowledge, this Board has had a copy of the First Amendment to the By-laws 5.07, dated June 29, 1998, since I presented it to you at the Board meeting on November 17, 2014. Subsequently at the February 24th Board Meeting I again raised the Amendment in clarifying the draft minutes of the previous meeting. However, an earlier lawyer's opinion letter, dated March 3, 2015, made no mention or reference to that First Amended Bylaws. Although it is Amendment 5.07 that was the focus of my objection to the Board's current governance procedures, that March 3 opinion letter scrupulously avoided any discussion of the content of that amendment and did not even acknowledge its existence.
2. The May 19 opinion letter finally acknowledges the existence of the amendment, but advances a new argument. It now asserts that this amendment doesn't change anything, because this document "was never recorded." There is no citation or authority in the opinion letter for this conclusion. That obviously is because there is no obligation – legal or otherwise – to record Bylaws.

ADDENDUM A - Homeowner Comment by Don Smaltz (Page 2 of 3)

3. Next, the letter asserts that the amendment is suspect because "it may not have been disclosed to any owner before close of escrow."

So – what legal effect does that have on the validity of the amendment? It means nothing, and it proves nothing. The test for determining the validity of an amendment is set forth in the Bylaws: That test is whether it was passed by a majority of the regular members. Indeed, in an opinion letter from this same law firm dated November 12, 2014 (p. 4) the writer stated, "*It is our opinion based upon applicable Nevada law and the Association's governing documents, that an amendment of the declaration and Bylaws may proceed if at least a majority of the owners with voting power vote in favor of the amendment. That is, at least 50% plus one of the owners with voting power must vote in favor of the proposed amendment . . .*"

4. Finally, the May 19th opinion letter asserts the "So what difference does it make" argument. That argument is that, since the Board if it were acting under Robert's Rules may disregard those rules, effectively that's all that this Board has done. So no harm, no foul! However, the very provision of Robert's Rules upon which it relies only permits deviation from those rules if *the by-laws or a resolution of the executive board permits*. Here, the by-laws do not permit such deviation. Neither of the references in the letter, the Robert's Rules and NRS 116.3106(2), authorizes nullification of the Amendment 5.07, which specifically requires the Board to follow the "**procedural rules** specified in the most current edition of the Robert's Rules of Order." That is permitted only by a specific amendment to the bylaws.
5. Finally both letters neglect to deal with the text of Amendment 5.07 which is that it requires the meetings to be conducted in accordance with the *procedural rules* of the most current edition of Robert's Rules of Order. The term *procedural rules* is a term referencing that body of governance regulations as set forth in the text of Robert's Rules now in its 11th edition. If the membership in 1998 wanted the Association to be able to promulgate its own Rules – there would have been no need to amend section 5.03--- as 503 expressly provided it was not obligated to follow any technical rules or principles of procedure. So there would have been no need for 5.07.

(2)

ADDENDUM A– Homeowner Comment by Don Smaltz (Page 3 of 3)

6. Neither of the “opinion letters” referenced herein is authority for the proposition that this Board can ignore and avoid the language of Amendment 5.07. Opinion letters can sometimes be a buffer to avoid liability for negligence and or willful misconduct in litigation. Those letters will not pass muster when the recipient knows or has reason to know the opinions are not factually accurate. If you have any doubt about the correctness of this assertion – ask your malpractice carrier.

Respectfully,

Don Smaltz

ADDENDUM B– Homeowner Comment by Lois Smaltz (Page 1 of 2)

Statement by Lois Smaltz, 1398 Amado Court, Reno – June 9, 2015

In January 2014 – 1 ½ years ago – the Board determined that the HOA should buy the golf course. The Board made this decision without seeking any input from the general members, other than golfers. Since then, the Board has permitted numerous pro-purchase presentations at Board meetings, with no time limit. These have been professional power-point presentations, arguing dire consequences if the HOA did not purchase and control this real estate. Still, the Board has not sought the consent of the HOA owners to pursue this multi-million dollar investment.

My continuing complaint is that the Board has continually refused to permit any contrary point of view to be presented at the Board meetings – other than a 3-minute opening-comment monologue, which was at times rudely shouted out by the pro-golf residents. And the Board denies the members the right to have any motion placed on the agenda of a Board meeting to discuss this issue.

This is a prime example of why this Board must follow the By-Law requiring it to employ the procedures in Robert's Rules of Order – which require that residents be given a reasonable opportunity to address important issues. A 3-minute limit is not a reasonable opportunity to highlight the many problems with the Board's actions in pursuing this purchase.

The Board's attorney Eva Segerblom recently issued a revised opinion letter, dated May 19, 2015, purporting to justify the Board's refusal to follow Robert's Rules. Although she acknowledges receiving the First Amendment to the By-laws, requiring use of Robert's Rules of Order, she calls the document "suspect" because it "may not have been disclosed to any owner" and "this document was never recorded." The obvious response is that the document is valid on its face,

ADDENDUM B– Homeowner Comment by Lois Smaltz (Page 2 of 2)

because it bears the signatures of HOA officers, which the Board can independently verify through its own records. It is the HOA's legal obligation to maintain all its governing documents. And, I have verified that none of the HOA's by-laws has been recorded. Further, I am informed by the Nevada Real Estate Ombudsman's office that there is no recording requirement for By-laws.

The legal opinion then reasons that Robert's Rules permit a Board to make up its own private rules. Well, that is circular reasoning – in 1998 a majority of the HOA owners voted to use Robert's Rules, NOT to permit the Board to completely disregard the procedures in Robert's Rules, resulting in anarchy – which is what we now have.

It may be more convenient for this Board to make up its own rules in order to accomplish its own goals, without regard to the consensus of fully-informed owners. But I submit that this Board does so at its peril. The Amendment to the By-Laws, which requires the use of procedures in Robert's Rules, was brought to the Board's attention at the November 14, 2014 meeting. Therefore, although this Board has known of the By-Law for the last 7 months, you have chosen to disregard those procedures. I submit that this refusal is a breach of the fiduciary duty owed by each director to the members of the HOA.

If anyone thinks that a legal opinion letter provides absolution for any legal wrongs, I suggest you read the headlines in the *Reno Journal Gazette* over the past few months. You will see what happened when the School Board followed bad legal advice.

Before this Board proceeds with any more decisions, I urge you to employ Robert's Rules of Order for procedures at your Board meetings. The rules require a **reasonable** opportunity – not unlimited time, but not an arbitrary 3-minute limit – for a member to address the Board on matters of importance. And the Rules specify that a member has the right to have a motion placed on the agenda of a Board meeting or propose any change to the agenda before the Board meeting.