



Harbor Pointe HOA Board of Directors Meeting Minutes: November 21, 2016

Acting President Nick Johnson called the meeting to order at 7:00p. Other Board Members present: Carl Stauske, Sue McGill, Gary Rafool, and Anne Dickison. Jim Carmany was absent due to a death in his family. Mike Childers and Core3 Property Manager Matt Smith were also absent. Two additional homeowners attended this meeting.

Due to constraints in time necessary for evaluating the Rules Committee's proposals and voting on whether or not to accept them, several regular Board Reports were either shortened or omitted.

Treasurer's Report:

Sue McGill provided reports of the October financials including the income/expense statement for our Reserves. The starting figure for the 2016 Reserve Balance carried forward was **\$324,368.60**. Current balance in the Reserves is **\$280,222.68**. This figure reflects income to the Reserves at \$5000 per month plus interest, minus allocated Long Term Capital Expenses. Year-to-Date Long Term Capital Expenses total **\$95,936**. YTD Net Balance (contributions minus expenses) in the Reserves therefore comes to a negative **\$44,145.92**.

The Operational Budget Checking account contains **\$56,680.35**. This is further broken down to: 1) Prior years brought forward (retained): **\$35,361.35** (this number remains constant all year); 2) Pre-paid dues: **\$10,614.60**; 3) Net (Income Minus Expenses) Year-To-Date: **\$10,704.40**.

Treasurer's Notes: Dues income was \$1029.80 less than expected. A large potential expense from the Reserves for road improvements may occur, but even if the work does take place before year-end, it is unlikely to be invoiced until 2017. As per a prior Board decision, if there were no unusual expenses before the end of the year, **\$10,000** would be transferred from *Operations* to *Reserves*.

Nick Johnson reported that the noisy irrigation pump is being rebuilt this winter, and could be pricey. He has asked Ron Roberts to invoice us for our portion now so that the expense falls within this year's budget.

The new dues structure for 2017 will start with the January 1st payment, and will amount to an increase of approximately 5-6% per Unit. Assessments to condo owners will be adjusted by insurance figures. In December, Core3 will distribute individual notices of the new dues assessments and instructions for changing the figure amounts for automatic electronic withdrawals/deposits.

Anne Dickison moved to accept the Treasurer's Report, Gary Rafool seconded it, and it passed unanimously.

Landscaping Report:

GreenView came today for a final cleanup. The grass cutters will come tomorrow but will set the blade lower to anticipate more growth before the first hard frost. Appreciation was expressed for the quality grass cutting and landscape trimming we have been receiving this year.

Gary Rafool reported that three weeks ago the grass-cutters' lawn mower caught fire while on its trailer, and that the trailer had been backed part way into the end of his driveway to allow proximity to a water source and hoses. The fire was mostly under control before arrival of the Fire Department. Gary contributed his personal fire extinguisher and use of his hose to help subdue the blaze. Carl Stauske reported that the cutters' trailer was damaged and their uninsured riding lawnmower was a total loss to them, but that other than a small stain on the driveway, no damage had occurred to Harbor Pointe property or landscaping. Carl would attend to restoring displaced gravel and work on the driveway's char stain. Following the incident and Gary's relayed concerns about allegedly delayed response times, Jim Carmany was in touch with the East Peoria Fire/EMS Department to review the fire call and their procedures for getting into gated communities. Harbor Pointe is serviced by the fire station next to Costco, so it does take some minutes to get here, but their time-stamped records indicated no delays, and no problems with gate access once they arrived. To obtain and maintain certification, Fire Department personnel must individually sign off that they know how to get in to Harbor Pointe, know that there is an emergency key box at the front gate, and know that they carry the emergency key to get in. At the meeting, Anne Dickison referenced Jim's inquiry and response, and suggested that the HOA reimburse Gary for his prompt provision of the fire extinguisher to aid in early control of the blaze before it could do more damage. All Board Members present agreed, and Acting President Nick Johnson authorized the Treasurer to proceed.

Building Report:

***Road:** City Coal has not yet begun work on milling and resurfacing the stretch of road in front of the 400 Building, and asphalt production essentially ends by Thanksgiving. However, City Coal indicated they should still be able to dig out the authorized parking turnaround area this week, but considerations like roots from the big ash tree, drainage & irrigation issues, and weather all contribute to uncertainties with their scheduling.

***Decks:** As of this meeting, Richard Cole had not yet submitted a bid for decking replacement. Sue McGill noted that of the 38 decks at Harbor Pointe, eight already finished replacing the wood decking with composite materials. Increasing costs of materials and labor, and projections of time needed for completion of the entire conversion project were discussed again. Several expressed that completing a "sample" deck this year would be helpful for the determination of time, expense, and materials in the future. Nick made a motion to complete a single deck to evaluate the costs. The amount spent on this prototype was not to exceed **\$2000**. Gary Rafool seconded the motion, and all present voted to approve.

***Satellite Dishes:** Nick Johnson noted that Harbor Pointe's 18-inch size restriction on satellite dishes no longer applied to contemporary dishes. The requirement for concealed wiring also posed a problem in terms of installation and enforcement. Other concerns about existing regulatory wording include defining responsibilities for roof damage; the seller's responsibility for dish removal if the new buyer did not wish to own it; and contracts for, and enforcement of, agreements for owners to remove all unwanted dishes. Nick pointed out that Harbor Pointe already had three orphaned satellite dishes, and as years go by and technology changes, inevitably there will be more. Sue McGill suggested changing wording in the Rules to say that satellite dishes would be allowed only through Change Orders, but Nick Johnson pointed out that the current wording for restrictions on dishes requires written Board approval for installation, so that equates to a Change Order. Sue went on to say that she had a problem with the current Change Order approval process, and cited a recent example of a dish installation (approved by the Board's Building Director) that she did not favor and would have voted against. Sue thought that Change Orders should have full Board approval, and Gary Rafool agreed. Gary went on to suggest that perhaps **all** Change Orders should be presented in advance to the entire Board and advertised on the HOA meeting agenda before the Board could formally vote to approve or disapprove the request. Sue McGill then noted that the current wording on satellite dish

restrictions (limiting their size to 18 inches) was in the Declarations, so the Declarations should be revised to encompass current practices and technology. Parliamentarian Gary Rafool put forth that Board-approved Change Orders could bypass Declarations; therefore going through a laborious process of changing the Declarations was inessential.

Gary Rafool then made a motion that all proposed Change Orders come to the Board for consideration and a recorded vote on approval or disapproval. Sue McGill seconded the motion. In the discussion that followed, Nick Johnson staunchly opposed the concept of requiring full Board approval for all Change Orders due to the addition of red tape and the long delays that would occur while going through the months-long process of first submitting the formal Change Order to Core3, then posting the item on the published agenda for the next Board Meeting, then waiting for that Meeting date, discussion, and vote to occur. Nick added that many Change Orders, for example those for furniture color, were repetitive actions that did not need much deliberation. Long delays for consideration of routine requests could result in unnecessary inconvenience and lost opportunities, but long delays for consideration of the most time-sensitive or functionally important Changes could have significant consequences for both the owner and Harbor Pointe.

Gary Rafool next extended his vision of the proposed Change Order process requiring full Board approval. He posited that all homeowners with infractions of Harbor Pointe's existing Rules and Regulations be required to submit Change Orders for their infractions for formal Board consideration and vote. If homeowners failed to submit the mandatory Change Orders, or if the Board voted to deny them, the homeowner could become subject to Board directives to take corrective actions by a certain date, and if found to be non-compliant to these directives, would become subject to fines and liens. Gary described that these mandatory Change Order steps to achieve the full Board's voted upon and recorded exemption from existing Rules and Regulations would replace all other potential pathways for "grandfathering" of infractions to existing Rules.

The term "grandfathering" was used throughout this meeting to refer to the situation in which longstanding conditions, some of which (like satellite dishes) were inherited from previous owners, were not allowed within existing Declarations, Rules, or Bylaws but were accepted and tolerated nonetheless. Nick objected to this way this term was being used, and clarified for the Board that "grandfathering" *only* applies to the situation in which a **new restricting Rule** is adopted after whatever the Rule was restricting was already in place. If both these conditions (new restricting Rule and antecedent existence of the object of restriction) were present, the term "grandfathering" would apply. However, if the new Rule *expands* and does not *restrict*, the concept of "grandfathering" does not apply, and if the existing Rule remains unchanged and the longstanding condition were still in violation, then exempting the violation based on its longevity is also not considered an appropriate qualification for "grandfathering."

Anne Dickison objected to Gary's concept of leaving all the Rules and Declarations unchanged, while simultaneously requiring all violators of the 2006 Rules to submit Change Orders subject to full Board approval in order to continue their violations. Infractions of the existing Rules were plentiful, almost ubiquitous. The Rules Committee proposed a number of changes (mostly liberalizing existing Restrictions, not adding to them) to address some of the most prevalent violations, but other violations (like the size of permissible satellite dishes) were spelled out in the Declarations and would require a different methodology for change. Anne argued that overlapping Rules and Declarations should be considered in tandem, and that both should be considered at the same owners' general assembly using their separately prescribed protocols for approval. Anne expressed concern that by making all current infractions (based on existing 2006 Rules) subject to full Board approval would open the door for political favoritism and inconsistent enforcement.

Sue McGill also objected to Gary's preference for leaving the Rules 2006 "as is" and only granting exemptions by instituting a retrospective Change Order system for all infractions. She reminded Gary that the Rules Community she chaired had been tasked with evaluating inconsistencies between common practices and existing Rules, reevaluating content and applicability of the Rules, and the proposal of recommended revisions to the existing Rules. Sue observed that many if not most of the violations would go away with acceptance of the Committee's proposed revisions. Until the Committee's proposals had been considered, and the Board finalized its choice of wording to present to the homeowners for discussion and ratification, attention devoted to existing infractions was premature. Sue was of the opinion that any Change Order

process utilized by the Board to catalogue and grant exemptions for violations should not be started until after the new Rules were firmly in place.

Gary disagreed and restated his viewpoint that Harbor Pointe's Board of Directors must be able to decide which of the existing infractions would be allowed to continue, and which would not. Using his vision of a Change Order system employed by the Board to document and archive *all* decisions regarding past and future exemptions from the 2006 Rules, Gary sought to lay down a foundation for enforcement.

Discussion about the pragmatics of how to allocate costs and assume consequences for Change Orders denied by Board vote (for example, who would pay for replacement of siding with holes in it if the Board denied the homeowner's Change Order to leave in place existing hooks and nails for decorations?) was cut short by a perceived urgency to move on to the Committee's proposed Rules themselves. The motion on the table that "all proposed Change Orders come to the Board for consideration and a recorded vote" was supported by Gary Rafool, Sue McGill, and Carl Stauske, opposed by Nick Johnson and Anne Dickison, and was therefore passed 3-2 by the Board members present.

Old Business:

Holiday Party: Harbor Pointe's Annual Holiday Party will be held Sunday, December 11, from 2:00p to 4:00p at the EastPort Deck Bar & Grill. Those with last names A to L are asked to bring a dessert to share, and those with last names M through Z were to bring appetizers. There will be a cash bar. Please RSVP to Vickie Carmany or Pam Johnson by December 3.

Proposed Changes to Harbor Pointe's Rules and Restrictions of 2006: The Board's Rules Change Workshop scheduled for November 14th was intended to precede this Board meeting and the Board's vote on the Rules Committee's proposed changes, but was canceled due to family illnesses and other factors. Despite dissenting opinions about whether to or how to adjust the timetable so that the Rules Change project was completed before several Board Members left for winter destinations, it was decided to combine discussion of the Rules Committee's proposed Rules Changes with the actual Board Vote for approval or rejection of the Committee's proposals.

In September, Sue McGill, Chair of the Rules Committee, presented the Board with a detailed document summarizing the Committee's final proposals for modification to the existing Rules of 2006. Contrasts with the Rules' current wording and comparison with their underlying Declarations and Bylaws were included in the document. Board Members were to review the Committee's recommendations in October and come together to discuss them after 2017 budget matters were concluded.

Sue summarized the process followed by the Rules Committee. Over the course of seven meetings in nine weeks, the seven Committee members representing the six buildings examined Rules governing external appearances one by one. Decisions and suggestions for new wordings were recorded and distributed at the end of each session. In the final session, each Rule topic was revisited, and consensus was determined by vote. The Committee did not reach consensus recommendations for all Rules. The Committee's Final Recommendations to the Board included annotated Rules modifications substituted into existing wording, and notations about differences of opinion or potential conflicts with existing Declarations or Bylaws that would require a different and more expensive methodology for change.

Sue's interpretation of which of the recommended modifications would necessitate collateral changes to the Declarations differed from that of some other Board Members, and was a point of discussion. Sue pointed out that there were too many modifications involved and too much overlap with the Declarations to allow the Board to vote to accept or reject the Committee's proposed changes as one entire document. She recommended that the Board go through the Rules one by one, just as the Committee had, and vote on the individual components. Those Rule modifications that were in potential conflict with the Declarations could be postponed to a later date and addressed in unison. Nick pointed out that changing Declarations was a demanding process and quite expensive. Changing overlapping Rules/Declarations one by one (and not as a whole) would compound legal fees and the time necessary to go through all the prescribed steps. Gary again advocated keeping the existing Rules 2006 as is, and if this were to generate too many Change Orders to

catalogue, document, and exempt all current and future infractions, then the Board should concentrate efforts on amending just the Declarations, and omit the Rules or just have the Rules mirror amended wording in the Declarations. A discussion of the scope of Rules versus Declarations did not resolve the issue. It was decided to initiate discourse over the Committee's proposed modifications of the individual Rules governing external appearances just to familiarize the Board with the Committee's thinking.

Gary expressed that since distribution of November's Board Meeting Agenda announced discussion of proposed Rules Changes, tonight's meeting would suffice for the Membership Assembly required to vote in Rule Changes. Others disagreed, and a discussion of procedure took place. Rules Committee Chair Sue McGill cited Bylaw passages and the understood process of having the Board vote on the Committee's proposed changes first, then circulating the Board's proposed Rules Changes to the HOA Membership, then posting a meeting for a general assembly of all Harbor Pointe homeowners to accept or reject the Board's proposed modifications to the Rules of 2006.

Board Members present then started to go through and vote on the Rules Committee's proposed changes one-by-one.

Pets: The Amended Declarations of Restrictions, Article VIII.7 Animals reads, "No animals, livestock, fowl, or poultry of any kind shall be raised, bred, or kept in any Lot, Unit, or Outlots except household pets as follows: Each Lot owner shall be permitted no more than two (2) dogs; two (2) cats; or one (1) each, subject to rules and regulations adopted by the Association. These permitted household pets shall not be kept, bred, or maintained for any commercial purpose; and provided further that any such authorized pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon three (3) days written notice from the Association."

The Rules Committee was split on how to deal with this matter. Some voted to leave the Pets Rule unchanged, and to interpret it to mean that cats and dogs were the only pets allowed in Harbor Pointe. One delegate noted that the Rule only specified restrictions for the maintenance of dogs and cats, but did not mention or impose restrictions on any other pets, so their maintenance did not constitute a violation of the existing Rule. Others favored a rewording of the Rule (and by necessity, its corresponding Declaration) to explicitly mention allowance of other small indoors pets.

In its final document to the Board, the Rules Committee noted its lack of consensus on recommendations, and proposed alternative wording to expand the Declaration and corresponding Rule in order to explicitly permit other small indoors pets. It also proposed to add to the existing Rule the description that all pets must be non-aggressive, inoffensive in terms of odor and noise, and pose no threat to humans, other pets, or property either inside or outside the Unit.

At least one of the Board Members present opposed changing the existing Rule because any expansion to include other permissible pets would conflict with wording of the existing Declarations. Others opposed the change because they did not favor expansion of the Rule to explicitly allow pets other than cats and dogs. Board Members present therefore voted four to one (against Anne Dickison) to keep the dog/cat Rule as is, and to prohibit the possibility of "grandfathering in" existing ownership of any other pets. Though the term "grandfathering" was used during this vote, Nick later clarified that since no Rules change would be implemented at this time, the conditions for "grandfathering" did not apply. During the discussion that followed the vote to prohibit "grandfathering," Gary took the position that either violators with pets other than cats or dogs produce a copy of their original Change Order proving the Board's permission to keep these pets, or they would be required to go through the Board's newly adopted Change Order process (requiring approval of the full Board) and would be expected to comply with the results. Violators could be subject to disciplinary action and fines. Nick Johnson suggested that before taking that measure, the Board might want to revisit the Declarations involved and under an appropriate method, include a revised statement on Pets.

Patios and Decks: Existing Rules define which personal property is allowed on decks and patios, and specifies what is forbidden. The Committee broadened what was allowed, removed color restrictions, included hanging flower brackets and hummingbird feeders as mounted by approved methods, and took qualifying “statuaries” (yard art figurines) off the forbidden list.

Board Members present debated whether or not the Rule should continue to have both “allowed” and “forbidden” lists. The Committee’s selection of such wording as “tasteful” and “non-offensive” was criticized as too vague and hard to enforce. Gary opposed the presence of all statuary except in the Courtyards. The Committee addressed issues of viewability and existing prevalence, and recommended expansion of restrictions for statuaries and other adornments for personal spaces covered in this section under *Patios and Decks* but also as applied to Riverside gardens, duplex side gardens and other less seen spaces, as well as in the Courtyards. Since so many statuaries and adornments are seen around Harbor Pointe already, the Committee favored removal of the prohibition just so long as the items were small, well maintained, and did not produce complaints from others. Opposing this, Gary made a motion to ban all statuary from Harbor Pointe premises except for exceptions addressed in the upcoming section on Courtyards. Gary, Sue, and Nick voted against the Committee’s proposed omission of statuaries from the forbidden list. Carl and Anne voted to go with proposals made by the Rules Committee. The exemption of Courtyards from Rules governing external appearances was understood to be an issue and would be discussed at a different time when we got to Courtyards. Gary, Nick, and Sue voted to take out the words, “Well maintained and tasteful.” Sue will work on new wording for this section and will present a draft to the Board for further discussion and approved revisions before the Board’s Final Proposal is released.

Flags and Banners: Though there was discussion, the Board present agreed unanimously with the Committee’s proposed wording.

Exterior of Buildings: Satellite dishes were already discussed, and the conflict between size restrictions spelled out in the Declarations and the Committee’s proposed Rules removing size restrictions were noted but not resolved. The Committee proposed the wording, “Nothing shall be affixed to the exterior of the building except (1) Satellite dishes whose plans and proposed locations have been submitted to the Association for approval prior to installation, and (2) specific items listed in *Patios and Decks* (Rule #2) and *Courtyards* (Rule #8).” Board Members present did not vote on the Committee’s proposed wording. Gary Rafool maintained that the Board’s use of Change Orders made changing this Rule’s wording unnecessary since the Rules of 2006 would remain the same and Change Orders for any exceptions would have to be voted upon and recorded by each Board.

Gary stated that he thought the HOA should establish and enforce time limits for displays of holiday lighting because people were leaving them up too long. He proposed Thanksgiving through January 10th. Violators would be given warning notices and could be subject to fines. No vote was taken and there was no discussion due to the advancing hour. At least one Board Member was opposed to the regulation of dates.

Porch Enclosures/Interior Window Coverings: The Committee defined window coverings and proposed a relaxation of restrictions on what manner of interior things could be viewed from the outside, concluding, “[Non-offensive] stained glass window hangings are allowed, but other hanging items visible from the outside are not.” Gary adamantly opposed stained glass window hangings except in the Courtyards. Carl questioned how the HOA could legislate what people were allowed to have inside their units. Sue was concerned that the Board’s blanket approval of all stained glass window hangings might open the door for religious, sports-affiliated, or other stained glass designs with content that some onlookers might find objectionable. More discussion took place about whether or not allowing permission for stained glass window hangings would necessitate changes to the Bylaws and Declarations. Gary Rafool maintained that with the full Board now entitled to vote on the Change Orders required for each and every infraction to the existing Rules, the Board could decide whether or not to allow the existing stained glass window hangings, or to allow any new ones to be hung in the future. The Board voted unanimously to accept the Committee’s proposed wording but to add the sentence, “Written consent of the Board is required.”

Vehicles/Driveways: Discussion was limited due to the advancing hour. Wording and definitions proposed by the Committee were reduced back down to wording of the 2006 Rules except for permission for owners to maintain a single potted plant between two adjacent garage doors if both owners agreed. All present favored this inclusion.

Motion to Adjourn:

Reviewing and voting on all the Committee's proposed Rule Changes could not be completed at tonight's Board Meeting because Jonah's was closing up. Courtyard regulation and several other important topics remained unaddressed and undecided. The Board was not in agreement with what constituted a general meeting of the owners, nor how to meet prescribed requirements for the changing of certain documents. With several Board Members already scheduled to depart for winter destinations, potential meeting times were limited. Overriding the established tradition of holding no Board Meetings in December, and over the strong objection of at least one Board Member present, December 19th was chosen for concluding the Board's consideration of the Committee's proposed Rule Changes, and for finalizing wording for the Board's proposal to homeowners to vote on in a general assembly. December 12th was identified as a potential date for a Workshop to discuss the Courtyards prior to a finalizing Board vote on December 19.

A motion to adjourn the November meeting was made at 9:20p by Nick Johnson, seconded by Carl Stauske, and approved by all. The next HOA Board meeting was scheduled to take place at Jonah's at 7:00p on Monday, December 19, 2016.

Nota Bene: Nick Johnson later cancelled the HOA Board Meeting set for December 19th. The next Board Meeting will be scheduled for an as yet undecided date in 2017.

Respectfully submitted,
Anne Dickison, Secretary