

**Villas of Babcock (Summerwind) HOA Board**

**Meeting Minutes**

April 10, 2017

**I. Call to order**

Martin Salazar called to order a regular meeting of the Villas of Babcock (Summerwind) HOA Board at 701pm on June 12, 2017.

**II. Roll call**

The following directors/officers were present at the meeting: Paul Vautier, Martin Salazar and Karen Mueller

**III. Officer Reports**

**1. Presidents Report**

- Status on Tax returns for unfiled years: Inquiry to Trio, no response yet.

- Requested that we begin sending meeting notices 1 week in advance vs just the 72 hours prescribed by law. Secretary, Karen Mueller agreed to send the notices.

- Requested that we add VOTE to the subject line of emails when a vote/approval is required by Directors.

**2. Treasurer Report**

- Preliminary review of the financials just sent by Trio. Some questions as to why the Current Month Operating Actual total was almost \$3000 over Budget. It was noted that the order for Transponders was placed and that was \$2056.69. Money was included in the budget for transponders but it was not shown in May. Some discussion also followed about fees incurred from Trio based on what Martin was seeing on the Portal. Needs further review. As Treasurer, Paul will familiarize himself with report. Directors agreed to review the financials in more detail outside the meeting and forward any questions/concerns to Martin for forwarding to Trio.

**3. Secretary Report**

a) Inquiry sent to previous secretary for update on outstanding meeting minutes; no reply received so research done and below is findings:

April 10, 2017 meeting minutes – found webex recording, will create minutes

March 6, 2017 meeting minutes – found webex recording, will create minutes

January 25, 2017 meeting minutes - no recording found

September 22, 2016 meeting minutes – proposed corrections to minutes in email to BOD, may have been motioned to accept as amended in previous meeting but need meeting minutes completed to confirm.

May 7, 2016 meeting minutes – found webex recording, will create minutes

August 18, 2014 meeting minutes – no recording found

2017 Organizational meeting minutes – approved via email on 5/22 by BOD and posted to website

**IV. Old Business**

1. Declaration Updates – Martin suggested we table and come back to it.

2. Update on Gate Repair – Compound Security coming on Wednesday to inspect repair done by individual who pushed the gate open at 226am on 6/10 to allow 2 vehicles to enter neighborhood. Attempting to obtain license plate for vehicles from Monica, as she is the only one that has access to the LPR camera feed. Will file with SAPD for both this incident and incident where Waste Management pushed the gate open and broke it in May. This repair was \$139. Martin indicated we can send the invoice to the city and see if they will pay but we need to know where/how to send it. Karen will call once license plate and SAPD Report info are obtained. BOD agreed we should go ahead and let the gate be repaired if possible, depending on if cost is within budget. BOD agreed to pay the \$139 invoice. Trio seemed to already have it prior to us requesting multiple times for a copy of it from Compound directly. Not sure why it had not been sent requesting approval to pay.

Suggested that we need to finalize the purchase of an HOA laptop as previously motioned and approved. Karen volunteered to do the research and find a suitable laptop. Need outstanding meeting minutes completed in order to confirm approved amount.

3. Camera repair update – LPR Camera was returned from Digital Watchdog. RMA indicates the power board was replaced. Karen will attempt to reinstall.

4. Landscaping/Irrigation repair update – The front, Viaduct and Center island improvements are complete and we are staying within budget. Park and/or Cavalier are next. Martin considering just putting in Lantanas at Cavalier so they can get started and hopefully make the island a little less bare. He would also like to look into some additional equipment for the park.

A new leak discovered at the front near the transponder reader. Martin has landscaper checking to see if he can repair. He will provide quote. If he cannot repair, we will reach out to Bexar Mowing. Also 3 broken sprinkler heads in need of repair.

In addition, the center island irrigation is again not working. Martin noted that the control box was open when he checked it. He followed up with Monica and confirmed there are not more batteries involved on center island. It is all electrical now. Not sure what the problem could be so he will have the landscaper check it.

#### 5. Tree Removal

The tree that fell at 19 Viaduct during the wind storm was removed. Since the part on the common area was HOA responsibility and the City would not handle since we are a gated community, so Martin coordinated with homeowner to have both the part on the common area and the part on their property removed at once for \$595.37. Homeowner agreed to split the cost with HOA. HOA will pay and Trio will send invoice for half to homeowner.

The second tree that fell on Latrobe was removed from the street by the homeowner. BOD not sure if it has been completely removed from property yet.

## V. New Business

### 1. Park Sign Repair

Karen reported that Robert temporarily put the sign back up but requested that the BOD approve for her to handle small maintenance items like this without having to wait for BOD vote/motion as long as it is within budget – just like we are doing with landscaping. BOD agreed that maintenance may be done without BOD approval each time as long as the maintenance is less than \$200. Martin will share the spreadsheet he is using to track landscaping expenses and Karen will mirror it for maintenance expenses.

### 2. Quotes for gate spikes

Quote from Compound was over \$16,000 so too expensive and not in budget. Prices from SecureLane.com were \$545.30-\$824 per 3 foot section. Our driveway is 18' on each side so we are looking at \$2700-\$4100, plus installation per side. Martin mentioned he felt strongly that we need a turn-key job vs buying the spikes from one company and having another to install them. Paul agreed and thus additional quotes will be needed in order to pursue. Karen suggested we might check with Quickpass to see if they can provide.

### 3. Gate Keypad

Karen again checked electrical connections – nothing apparent so keypad was removed and insulation was added so that it is no longer touching the metal. In addition, the metal door was secured so that visitors do not have to touch the door to enter their code. Also the protective covering that was ordered was received and installed. Remains to be seen how it will hold up in the Texas heat and since some of the numbers are already quite worn again, it makes it a little difficult to read some of them. Martin suggested that we ask Quickpass to replace again and if there is a charge we use the Electrical budget. Karen also suggested we order the hard plastic cover to protect the new keypad. BOD agreed.

### 4. Caswell light update

Karen noted that light was out during the evening last week. It may just be the light bulb but we do not have a ladder tall enough to confirm. No electrical repair was done or apparent during the reinstall of the pole. Martin requested that we find out when Mueller Electric could come to check it.

### 5. Collections Process/Approval to send 9 outstanding owners to collections

Trio is requesting approval to send 9 owners that owe between \$399.81 and \$523.09 to collections. Owners will receive a \$90 charge each and HOA will be charged \$25 each. Karen Mueller motioned that we approve for Trio to send the 9 owners to collections. Martin Salazar seconded. Motion carried.

### 6. Legislative/Law Changes from Trio

Martin had reviewed briefly and indicated there was not really anything that would affect us. BOD opted to review the information individually outside the BOD Meeting.

### 7. Spectrum Internet changes

Trio had received invoice from Spectrum where our service was increasing over \$99 per month making it almost \$300/month. Karen contacted Spectrum and indicated we were going to have to change carriers if the price was changing that much. Spectrum was able to give us faster internet (60/5 with wifi vs 10/2 we had) for \$104.98/month plus taxes, fees and charges. Representative indicated taxes, fees, and charges are a percentage of the total so they should be less than the \$20 we pay for them now. No equipment changes needed. She did indicate it would be best if we could go ahead and pay the \$269 bill received and then the next statement will show adjustments since we were not on the expensive plan for the entire month. Confirmation # for order is 9134344.

8. Martin proposed a new business item of an order of cones for the HOA. Previously we used Monica's cones but with the recent tree incident it was apparent the HOA needs some. Martin suggested we not order orange so that the cones are easily identifiable as belonging to the HOA. Martin shared information and pictures on some he had found and questioned how we typically get Trio to order. Karen indicated she usually provides them the direct URL to the website from which to order. Martin motioned that we purchase up to 6, not to exceed \$150. Paul Vautier seconded. Motion carried.

9. Declaration Updates – BOD reviewed the updates previously proposed and the attorney response.

- For the changes in 3.2 Voting Rights, the BOD agreed to take the attorneys advice (see below) and not change this section.

**Section 3.2 Voting: “I do not believe that the amendment to (a) or the addition of (c) is necessary. Subsection (a) in its current form includes both types of owners.”**

Based on discarding the changes to 3.2, the changes to 4.3 (a) are not needed. For 4.3 (d) to allow the BOD to establish discounts for members that pay early, BOD opted to accept attorney's advice and change “alternative payment plan” verbiage, as well as removing the redundant sentence at the end of (d). See below for actual attorney response.

**Section 4.3. Basis and Maximum of Annual Assessment: Subsection (a). I believe it makes sense to set the assessment level(s) at whole numbers (i.e. \$400.00 and \$500.00). It makes the accounting a whole lot easier.**

**I do not believe differing assessment levels for Class A and C members is a good idea. It also requires amendment of Section 4.6 of the Declaration. Logistically, it will be nightmare to determine which members are Class A or C members. Likewise, an owner could be a Class A member and then a Class C member the next day. What about owners that live here for 6 months and leave their home vacant for the remainder of the year? The Association will have to rely upon the owners to update their status on a continuing basis. As both Trio and I can testify, properties are frequently transferred, let alone leased, without any notice to the Association. For those reasons alone, I do not believe differing assessment levels to be a good idea.**

**Subsection (d). It appears that the intent is to offer owners that pay their dues early (on time) a 10% discount. Accordingly, I would remove the phrase “alternative payment plan,” as Chapter 209 of Tex. P. Code requires the Association to offer owners that are behind in their assessments an “alternative payment plan.” A substitute would be “Beginning in 2016, any owner whose past assessment balance is paid in full shall receive a 10% discount of the current assessment year if paid by January \_\_\_\_.”**

**The remaining part of (d) is superfluous as (a) contains the same language re: increase above 10%...**

Next was discussion on Parking and the Parking Resolution. Based on attorney response, the changes proposed are sound. (see below)

#### **Section 6.6. Uses Specifically Prohibited.**

**Subsection (b). I believe with the proposed language stricken, the Association (Board) could then use its authority to unilaterally create “rules and regulations” for parking of vehicles in the the common areas. “Rules and Regulations” are attractive because they can be passed without the vote of the membership and likewise amended if they are not working as intended.**

There is still a question on how we prove that a vehicle parked in visitor parking belongs to a resident in order to tow it. This question was asked of Bill Crist, attorney sometime back but never answered. Martin will follow up.

See attorney response via added subsection O:

**Subsection (o). The vast majority of Association’s are trying to prohibit the short-term rental of property (VRBO/Home Away, etc.). If the membership wants to allow it, I would replace “daily rental” with short term rental (less than 30 days)...**

Regarding changes to 6.15 General Maintenance of Lots the attorney was fine with the amendments with minor suggestions for changes but cited some sections of the Property Code that would need to be satisfied as far as notice. In addition he cited “Forced maintenance and fines would also fall under the purview of Section 209.0051 requiring they be considered and/or voted upon only at an open Board meeting.” BOD had some questions about voting on forced maintenance and fines for specific properties in an open meeting. Typically discussions about individual properties occur in executive session for privacy reasons. Martin will follow up with attorney for clarification. Full attorney response below.

#### **6.15. General Maintenance of Lots.**

**I’m fine with the proposed amendments in the 1<sup>st</sup> paragraph. That said, it refers to “maintenance standards” contained in the ACC Guidelines. While Section 5.5 of the CC&R’s could be construed to empower the ACC to create “maintenance standards,” it’s not crystal clear. It could be construed that the “Design Guidelines” are limited to the initial approval of new construction and improvements. It could be amended to read “...quality exterior finish materials, minimum landscape plans, and landscaping maintenance standards for each Lot...”**

**As far as the additions are concerned, in order to effectuate the forced maintenance and fine provisions, the 1<sup>st</sup> notice would have to comply with Sections 209.006 and 209.007 of the Tex. P. Code (certified, describe the violation, time to cure, opportunity to meet with the Board, etc.) I will forward the code sections for your review. Forced maintenance and fines would also fall under the purview of Section 209.0051 requiring they be considered**

**and/or voted upon only at an open Board meeting. ASK ABOUT OPEN DISCUSSION OF FINES FOR INDIVIDUAL OWNERS:**

**I would consider deeming the cost of the forced maintenance and admin fee as an additional assessment subject to all remedies of the Association contained in Section 4.8 of the Declaration. The Association can't foreclose for fines and force maintenance fees. The language about interest would also be superfluous as Section 4.8 contemplates interest, etc.**

In addition, he addressed the changes proposed to the ACC guidelines as follows:

**Lastly, I do not believe that the Association would be “estopped” from amending the ACC Guidelines. While my opinion on the parking issue indicated “estoppel and/or waiver” would be a defense if the Association reverted back to enforcing the Declaration as written (no parking common area/streets), I do not believe the same arguments apply to ACC Guidelines. As we discussed, the parking guidelines acted as a relaxation of the terms of the Declaration re: parking, there's at least an argument that the Declaration always gave the ACC the authority to create “landscape maintenance standards.”**

Regarding setting a date for the Special Member Meeting, BOD still wants to do a 30 day marketing campaign to ensure all members are aware. BOD decided to hold off on setting a date until the attorney response to above concerns can be received. Karen will incorporate the above agreed changes into the Declaration and send to Martin with the sections in question highlighted by Friday so he can work on drafting communication to attorney this weekend and deliver by Monday, requesting response within 7 days if possible but NLT end of the month if additional time is needed. Action items to market to members was tabled until date can be set.

BOD also agreed that update to Bylaws 5.4 needs to be made. It incorrectly references 5.16 vs 5.17. Also need to update the verbiage in 5.04 to ensure we have continuity on the board. Martin made suggestion and will work to re-word the section. Section 4.6 Uniform Rate of Assessment needs to be removed as it will be in conflict with the new changes in Declaration to allow for discounts to members that pay assessments early.

10. Next BOD meeting – hold in July, date to be based on when we can get response back from attorney.

## **VI. Adjournment**

Martin adjourned the meeting at 916pm.

Minutes submitted by: Karen L. Mueller, Vice President/Secretary