

**Sundance Homeowners Association
Board Meeting
April 25, 2018
6:00-8:00pm @ KJ's: 4055 Dawn Ct
MEETING NOTES**

Attendees

Board of Directors

- K.J. McCorry, President
- Kim Rider, Vice-President
- Samantha McBride, Treasurer
- David Julie, Secretary
- Lindsay Sharp, Director

Architectural Control Committee Members

- Kim Rider
- Scott Troetel
- Ralph Doane
- Carrie Mabie

Sundance HOA Partners

- Nick Conley, Property Manager from Highland Realty & Management
- Lisa Morgenthal, LID LANDSCAPING (Walkabout only)

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SHOA Board Business

This meeting was conducted on April 25, 2018 with all board and ACC members present.

The meeting was called to order at 6:05pm.

Declaration of Covenant Review

The board decided at a special meeting on February 7, 2018 to revise the Declaration of Covenants and Articles of Incorporation for the Sundance HOA. The board engaged the law firm Orten Cavanagh & Holmes based in Denver to assist the HOA with revision of these governance documents.

The **Declaration of Covenants** is a document that provides guidelines for a planned community. The **Articles of Incorporation** is a document that establishes the existence of a corporation/ nonprofit/entity.

The **Bylaws** document how an organization or a community will govern and regulate itself. The Bylaws were modified, revised and approved by the board in 2016.

The following topics were discussion items on the revised Declaration of Covenants based on the questionnaire responses from the HOA members, board and ACC. The text in red is the HOA attorney, Aaron Goodlock (AG) initial responses to these concerns and questions. The text in green are notes from K.J. McCorry after a verbal conversation with Aaron Goodlock on April 24, 2018. The text in purple are summarized comments, feedback and additional questions from the board and ACC members on April 25, 2018.

Borrowing funds for the HOA: Is owner approval required? If so what percentage? Best practices on this?

AG: It is up to the Association to determine whether to require owner approval to obtain a loan. Frequently the Board is vested with sole authority to obtain a loan, however, some associations do require approval by owners. The owner approval that is required (if any) varies significantly. CCIOA states that the Board has authority to assign its right to future income (the security typically required by lenders to obtain a loan), "but only to the extent the declaration expressly so provides."

KJ: It would require approval of the owners, majority that are present at the proxy at a meeting. (not a majority of the homeowners). Aaron says the only issue is getting homeowner approval based on lack of engagement and apathy and this can constrict the HOA's from getting homeowner approval.

Board/ACC:

- Can the document provide more proxy clarification and its relation to votes on borrowed funds?
- It was agreed that all loans must be within a dollar amount not too exceed the 1/3 total HOA annual revenue.
- If there is a catastrophic event could the HOA have a higher dollar amount being borrowed with a vote of 60% of the homeowners?

Special Assessments: Do we keep special assessments at 67% of the vote (current guideline) or revise? What do other HOA's do?

AG: Again, this varies from one community to the next. We generally recommend providing a "veto right" to owners, similar to the statutory budget procedure that is mandatory for all post-CCIOA communities. Using this

method, owners would have the right to “veto” any proposed special assessment (usually by a vote of a majority of the owners). This approach provides owners the right to participate and seeks to overcome issues frequently associated with apathy, where the Association’s hand are tied simply because owners elect not to vote.

KJ: Under CCIOA there is a requirement for new communities, that gives the members the right to veto special assessments. A new bill in Colorado State, that would make this mandatory for ALL HOA’s. The language he has used is what is in this new bill that most likely will be passed by the Colorado Senate.

Board/ACC:

- It was agreed to change language to “affirmative” vote vs. “veto vote” and have 60% of the homeowners approve. Can this be changed or based on the new State legislation must the language be “veto vote”?

Fences that abut against common area and homeowners- Is this responsibility of the HOA? Not clear in current documents.

AG: This can be clarified in the Amended Declaration to allocate maintenance responsibility of the fences between the Association and Owners.

KJ: From the standpoint of uniformity and continuity and maintenance in common areas/outlets, Aaron suggest we do add clarity about fences into the Declaration. The maintenance in the Declaration is not contingent only HOA property.

Board/ACC:

- It was agreed that repairs or replacement of back fences that are along homeowner property and abut against common areas will be 50/50% split between homeowners and HOA. Any back gates that access to a common area will be the sole responsibility of the homeowner to replace or repair. If any fence that abuts against common area, the homeowner must request removal of the fence from the HOA.
- With specific detail that is outlined in the current fence policy, should that be included in the revised Declaration or stay as a separate policy?

Pets: Do we allow chickens in the HOA? If so, any restrictions on chicken coops? Best practices on this?

AG: This is up to the HOA/owners. The HOA may allow or prohibit chickens and/or impose limits on the number of chickens allows (but the HOA cannot allow more than the number permitted by Boulder ordinance. Chicken coops, if permitted, would be subject to architectural approval by the Association.

KJ: Aaron kept the same restriction for chickens to be prohibited. Aaron’s concerned that houses are very close to each other that if you allow chickens that noise issues will be problems for the HOA. Aaron said most communities prohibit them. HOA’s can be more restrictive than what the City Code says. With pets, Aaron went off City of Boulder ordinance of pets not allowed.

Board/ACC:

- It was agreed that dogs only will be required to be on a leash within the HOA common area.
- It was agreed that no chickens shall be allowed in the HOA due to close living quarters and backyards.
- It was agreed to remove “bees” as a prohibited animal in the HOA. It was agreed that homeowners may keep honey bees.

- Nuisances of pets- There was concern of homeowner pets who have exhibited aggressive behavior to other pets and/or humans. If the HOA does not allow these aggressive animals to stay in the community, and the HOA does not ensure the animals are removed, could the HOA be liable for any harm from the homeowners aggressive animals?

Trailers, Campers Storage: Do we allow these in the HOA? If so for how long? If so, where (driveway vs. street)? Best practices on this?

AG: Again, this is discretionary by the HOA. Oftentimes, HOAs permit campers, trailers, etc. as long as they are appropriately screened from view or parked within an enclosed garage. The HOA may prohibit parking or storage of these types vehicles on streets, driveways, or other designated parking areas, if desired.

KJ: The current revised version allows trailers and campers to be allowed in the community in garages or in the driveway for a temporary period (not specified). For longer periods, would need to get permission from the HOA. Cannot be parked on the street.

Board/ACC:

- It was agreed that trailers and campers can be parked in a garage permanently and in the driveway or street for 7 days. After 7 days the homeowner would need to request approval by the HOA. There still will be no permanent storage in the HOA for trailers and campers based on limited parking space already available in the community.

Vehicle Parking: Vehicles parked in the driveway vs on the street?

AG: If public streets, it can be difficult for the HOA to enforce parking restrictions on the street. However, there is case law that supports HOA's authority to regular parking on public streets.

KJ: The HOA does not own the streets however, HOA's can enforce street restrictions. In the Declaration there are no restrictions on parking on the streets. However, Aaron suggests that we have guidelines added into the Declaration on the guest parking to cite limited long-term parking.

Board/ACC:

- The board agreed that vehicles can be parked in your driveway for repair if needed.
- It was agreed to remove language for restrictions in guest parking. There was concern of managing cars in guest parking.

Nuisances: Is this section still included in the revised covenants or is it removed and assumed under City law? Benefit of having this section in declaration?

AG: Yes, these types of provisions are very common and are included in most newer documents. Typically, we attempt to include/identify specific types of behavior or conduct that are deemed objectionable and may constitute a nuisance. Nuisance provisions that are overly broad or vague tend to be difficult to enforce since they are very subjective.

KJ: There is a section on nuisances and Aaron recommends keeping these provisions to support HOA requests to homeowners. Aaron added in there that if homeowners have a right to enforce these issues either by calling the City and/or direct request.

Board/ACC:

- There was concern addressed about the HOA policing these nuisances and our HOA responsibility and liability.

Short Term Leasing: Do we allow short term leasing (i.e. AirB&B)? If so, how long? Best practices on this?

AG: Some communities are imposing express restrictions or prohibitions on short terms leasing, while other communities are embracing short term rentals. A recent Colorado appellate court case supports the authority of HOAs to regulate and restrict short term leasing by covenant. If short term leasing is allowed, it should be subject to certain requirements, such as requiring the owner to provide emergency contact information and proof of compliance with local short term leasing ordinances.

KJ: Currently there is no lease term in our Declaration. The revised document has no lease term and therefore AirB&B models could be allowed. Based on past court ruling, HOA's must have it in the Declaration to lease term limits if is not allowed. City of Boulder does allow with a permit. It is possible we add in that if homeowners do have short term leasing they must provide the HOA a copy of the permit so then the HOA would know which homes are doing short term leasing.

Board/ACC:

- What is the PUD restriction for our HOA on two unrelated family members that reside with a single family home?
- What is the Boulder law on restrictions in terms of turnovers?

Conversion of Garages: Can garages be converted into livable spaces?

KJ: Based on discussions with the City of Boulder Planning Office, the Planned Urban Development agreement, does not allow for garages to be livable spaces in the Sundance community. In the revised version, it does not specifically say no conversion of garages. However, it does say improvements must be approved by ACC. If the HOA wants to add in specific language to this affect, Aaron can add it into the provision.

Home Maintenance: Level of specifics in the governance documents vs. writing policies? (Ex, paint your home every 10 years, prune and maintain trees annually,)

AG: Specific maintenance responsibilities of the Association and Owners, including maintenance standards, can be identified and described in the Amended Declaration. Typically, the Declaration also includes provisions to allow the Association to impose fines, etc. if an owner fails to adequately maintain their property, or permits the Association to perform the maintenance at the owner's expense after reasonable notice.

KJ: The revised version provides more specifics of home maintenance. The homeowners are responsible for any maintenance for anything on their lot (Aaron provides list). Aaron suggests to review this list (page 13) and make sure this is comprehensive. This section of the document also gives the HOA the right to do the work and request reimbursement and/or fine if work not done. Aaron did a lot to update this section on Architectural Controls.

Board/ACC:

- The section on Architectural control section was too restrictive. There was concern of managing all the requests and if these were all needed. It was agreed the board and ACC would review this list in detail and provide comments at the next meeting.
- It was agreed that the ACC gets 30 days to respond to homeowner requests, if there is no response then it would be assumed approval.
- There was concern that too much control of the HOA and limited control with the homeowner. The board and ACC would like to have more balance in the language in these sections.
- The timeframes for corrections is too detailed and may want to consider revising.
- It was suggested to restrict the height of trees to 40 feet or less with all new trees planted in homeowners lots. This is to ensure adequate light on neighboring properties.
- In the case of zero lot lines, want to ensure that homeowners can access in order for repairs.

Other Concerns cited by the board/ACC with the first draft:

- It was agreed to restore a limited 5% dues increase by the board. Additional increases must be approved by the HOA members.
- It was agreed that work from home will be allowed in the community.
- It was suggested to remove the sign clause
- It was suggested to keep existing Satellite dishes.
- It was suggested to prohibit rooms or garages being converted to grow marijuana for resale.

Next Steps

It was agreed to give the board and ACC two weeks to review the revised Declaration of Covenants and Articles of Incorporation. The board and ACC will provide specific feedback to K.J. McCorry **by May 9, 2018**. K.J. will consolidate this feedback and another board/ ACC meeting will be held the week of May 21st to resolve additional comments and issues with the first drafts of documents. Then, comments and edits will be provided to Aaron Goodlock for the next version to present to the homeowners.

Financial Statement Review

The board received the financial statements via email. There were no comments, concerns or issues with the financials statements. Current checking account balance as of March 31, 2018 was \$42,481, and the reserve account was \$83,039. As of March 31, 2018 the HOA is operating within the approved 2018 budget.

HOA Communications

The Spring newsletter was distributed to homeowners on April 10, 2018.

Sundance Walkabout

The Sundance Walkabout was conducted on April 9, 2018 with K.J. McCorry and Lisa Morgenthal only.

Common Area Care

- Lawn Fertilizer: The board approved that non-toxic, organic fertilizer be applied to the common area lawns by Organolawn. Nick has sent the 2018 schedule to LID Landscaping.
- Sprinkler Schedule and Repairs: LID will turn on the sprinkler system in May 2018 and at that time recommend needed repairs.
- Tree Care: Taddiken provided a proposal to trim and remove trees in the common area. The board approved the tree proposal via email on March 27, 2-18 and work was performed April 2, 2018. The board agreed to be proactive to remove Ash trees from the Sunrise Court area in lieu of the Emerald Ash Borer (EAB). David Julie has been monitoring these trees for EAB for over four years. Once the Ash trees are infected the HOA is required by law to remove them. It is more expensive to have a tree removed after it is infested than removing it preemptively. The HOA removed four Ash trees from the Sunrise area and David Julie has planted two scarlet maples, a sugar maple and two redbud tree saplings near their location. The HOA removed a cottonwood from Crystal Ct area that had died. David Julie also planted a small sugar maple and redbud trees in the Crystal Common area.

Crystal/ Dawn Court Common Areas

- Ditch cleanup: The water ditch was cleaned up by LID landscaping of leaves and tree limb debris April 19, 2018.
- Playground Area: The playground area was in good condition. No repairs or maintenance cited.
- Bridge: The bridge was observed to be damaged in several areas due to snow plowing over the bridge. A request was made to the community manager to repair or replace boards on the bridge.
- Fence: The fence was observed to be in good condition and no repairs were necessary.

Mailbox area

- Mailbox Maintenance: SHOA signage was found in good condition. The bulletin board was found in good condition. A request was made to Mr. Setlock to weed around the mailbox area by the community manager. *Note: The SHOA is only responsible for the maintenance inside the fence of the mailbox area. Everything on the other side of the fence is the responsibility of Mr. Setlock (based on an agreement made with SHOA in 1998)*

Sunrise Common Area

- Common Area: It was requested of LID to be mindful of mowers and weeders of the new trees and saplings in the Sunrise common area.
- Bocce Ball: Ralph Doane has placed Bocce ball materials in the Sunrise Court area for homeowners to use.
- Fence: The common fence in Sunrise court was observed to be in good condition and did not need any repairs.

28th Street Common Area

- Fences:

- **Fence Along 28th Street:** This fence was observed to have some minor damage due to wind/storms. The damage and repairs are not critical and will wait until more fence repairs are needed.
- **Fence along homeowners on Autumn Ct/28th Common Area:** This fence was observed to be in good condition and no repairs were needed.
- **Trees:** The new trees planted by LID in the fall of 2014 and the seedling trees planted by David Julie in the Spring of 2015 all looked in good health. There are two small hawthorn sapling trees that will be removed by David Julie as they have thorns and considered safety concern.

Creekpath

- **Trees:** The HOA also had to remove a large willow from the east creek that was severely cracked and compromised. Minor tree trimming also occurred along the creekpath by Taddiken on April 2, 2018.
- **Fence:** The fence that abuts against the East Creek Path and behind Dawn Ct homes was observed to be wobbly and loose.

Common Driveways and Parking Areas

- **Pothole:** There were potholes identified on Sunrise street. Kim Rider reported the pothole damage to the City of Boulder.
- **Parking Areas:** The parking area trees were checked. There is minimal tree trimming and weeding needed that LID will take care of.
- **Dawn Court Bushes:** The new bushes planted in the Dawn Court parking area in 2014 were alive and showed signs of growth and bloom.

Dawn Court Triangle

- **Ditch- Waterway:** The ditch waterway in Dawn Court Triangle was observed to be partial full of dirt and debris. LID will remove dirt and debris and consider long term solutions for the water access to flow through.
- **Maintenance:** LID was asked to mow this common area. The homeowner who maintains a community garden will be asked to remove some temporary fencing in order for maintenance to be conducted.

Homeowner Property reviews

HOA properties were reviewed for the following issues:

- Trashcans in front of property
- "Stuff" between homes
- Lawn/garden care
- Fire Hydrants- exposed
- Painting and maintenance of home
- Fences between property owners

Next board meeting

The board and ACC will meet again in mid-May to finalize comments on the first draft of revised governance documents.

The board meeting on April 25, 2018 was adjourned at 8:05pm.

SUNDANCE HOMEOWNERS ASSOCIATION, INC.
a Colorado nonprofit corporation

By: David Julie 5/7/2018

Secretary