

EAGLE BEND WEST COMMUNITY ASSOCIATION INC.

August 6, 2020 3:00 p.m.

ANNUAL BOARD MEETING

THE PAVILION

CALL TO ORDER: President John Cannon called the meeting to order. John stated the purpose of the Annual Meeting is to elect new officers, review the finances and discuss the CC&R proposals that have been mailed to the members.

ESTABLISHMENT OF A QUORUM: A quorum consists of 25% of the 58 memberships in EBWCA which equates to 15 lots represented in person or by proxy. Dave Roberts announced that a quorum had been reached.

INTRODUCTION OF BOARD: John introduced the current Board; Bill Whitsitt; Stuart Cole treasurer; Dave McIntyre. John introduced Property Manager Dave Roberts and thanked him for the many years of service. He also acknowledged the Design Review Committee and Landscape Committee who have done a great job this year. Bill has worked on the Communication Committee, which entails writing a newsletter to the EBWCA members to keep them informed. The web site is also a great stay to stay informed. This site contains a calendar with dates of Board meetings; rent agreements; the By-laws, CC&Rs and Design Review Guidelines can be found there as well as the wetlands and setback information.

PRESIDENT'S REPORT: John explained to the members that EBWCA is operating under the original 1997 CC&R's. A committee of members has been working for over a year to seek input and propose a number of CC&Rs updates that would benefit the community. One clean-up item to the CC&Rs is to eliminate the townhomes references, which is in the 1997 CC&Rs when EBWCA was one HOA. The member committee has talked with outside counsel and has solicited input. The responses are reflected in the draft that was mailed to all homeowners in EBWCA. The Board also changed legal counsel in 2020 and has upgraded to Randy Snyder. Randy was present at the meeting and introduced himself.

CC&R PROPOSED UPDATES: John reviewed the four (4) proposed updates that were mailed to all members for their review prior to the meeting. The Board is asking all members to vote on these items and return the ballots in person today or e-mail/mail to our property manager. Randy has printed out a redline version to show the changes if any homeowner is interested in looking at the changes.

Proposal #1 – 2020 Restatement of Covenants: The Community was formed in 1997 and since this time there have been various covenant updates (2002 and 2011), but those were invalidated for technical reasons despite EBWCA's winning a lawsuit on the

Association's underlying authority. The Board of Directors and our legal counsel proposes to update the document with mostly technical corrections and clarifications.

Proposal #2 – The Authority to Design and Implement a Fine Schedule and Process. The Board would circulate the schedule and procedures for comment before implementing the fine process.

Proposal #3 – Short-term Rental Restrictions. Details are spelled out in the proposal.

Proposal #4 – Parking Restrictions: Trailers, campers, boats etc. are always prohibited to be parked when visible by Neighboring Property per the 1997 CC&R's with class A Motorcoaches being allowed. The proposal includes a broader list of vehicles and items allowed to be parked with a 14 days limit. It was pointed out that this is similar to provisions in effect between 2002 and the court decision in 2015 that led to reversion to the 1997 CC&Rs.

Q&A with the members: John asked the community to ask questions regarding the four (4) proposed updates. It was also reiterated that the proposed updates to the CC&R's resulted from the work of a group of community members taking into account recommendations from across the community.

Bill said that a recent newsletter had explained the history of the Association and why members are under the 1997 CC&Rs. When the Board is asking for a change in the CC&Rs it will take a 2/3 vote to allow that change.

Member Voting. One homeowner asked why both husband and wife needed to sign the ballot. John and Randy advised that under state law each property owner needs to vote on a ballot and sign their name. If a title is in two names, then two names are on the ballot. In the event someone challenges the votes then this will be legal. It was asked how to accomplish this if the owners are in separate locations. It was advised that if owners are in separate locations, all should agree on the "yes" or "no" votes, vote accordingly, sign the ballot, and return the individually signed ballots.

Parking. There was lengthy discussion regarding the proposed parking restrictions (proposal #4). The members raised questions regarding the counting of 14 days. Is this per vehicle, or, is this only 14 days for the summer? John Cannon advised the 14 day restriction is meant to be 14 consecutive days of each vehicle/item (as in previous restatements of our CC&R's). Per the 1997 CC&R's, Class A Motorcoaches are allowed to be parked. The proposed update allows additional vehicles and items to be parked. The 14 day limit resurrects what was included in both the 2002 and 2011 CC&R restatements. Some members did not think the wording was clear enough and wanted this to be looked at closer by legal counsel and the Board.

Senate Bill 300. Randy Snyder gave an explanation of a bill that passed in the Senate in 2019, called Senate Bill 300 (SB300). SB300 states, effective May 2019, homeowners are governed by the CC&Rs in existence at the time of the purchase of their property and limit's HOAs from

enforcing updates to CC&R's which are more onerous (meaning more stringent – left to interpretation to determine what is more onerous) unless property owners expressly agree to the more onerous restriction. If a homeowner does not vote in favor of (does not vote for or notes no for) a more onerous update then that update does not apply to that property until the property is sold at which time all updates will apply to the new property owner. SB300 does not prevent HOA's from enforcing CC&R's in place at the time of property owners purchase. It was pointed out that this is a nightmare for HOAs as they must keep a spread sheet of the votes and what property owners are subject to what CC&R and what updates.

Aaron and Monica Rudio raised concerns that they interpret SB300 to require any homeowner to officially register their disagreement to any proposed CC&R update in order to not be subject to any of those updates. Randy Snyder explained this is not the case and simply not voting for or voting no for a more onerous update results in a homeowner not being subject to the more onerous update. Randy Snyder offered, at no charge, to sit down with Aaron and Monica to go over in detail. Aaron declined the offer.

Fines: John explained that in an HOA you have minor and very major issues. The major issues are easy, the Board can contact a lawyer and legal action can be taken and the court can resolve the complaint (as allowed by our CC&R's). Those types of major events rarely happen. But, for those issues that are smaller issues, the Board does not want to hire a lawyer to write a letter and persuade the homeowner to comply with the CC&Rs. Currently EBWCA is hamstrung, and if we can establish a system of fines, smaller issues can be dealt with without having to involve legal action. If a property owner ignores all warnings and is not willing to pay fines imposed, then the Board can hire legal counsel and assess a lien on their property (last desirable option). The goal is to work with all homeowners to resolve issues and avoid legal action if possible.

Voting Deadline. The Board has not set a date when they want the ballot to be in as they want to have a dialogue with the homeowners. The Board will advise what the voting deadline when it is established.

FINANCIAL REPORT - Stuart Cole: This is the first year EBWCA did not come in under budget in many years. There were some expenses that were not figured into the budget. The legal expenses were higher than projected and the landscape and irrigation expenses and sidewalk repairs were all over budget. As of June 30, 2020, there is \$56,900 in the Capital Reserve and in Operating Funds \$32,500. In previous years we were able to decrease the dues but if we are over budget in the future, then the Board may ask to increase the dues. The roads continue to be in good condition and are hoping that the present chip sealing will last until 2025. The Board has budget \$15,000 for the new landscaping along the front entrance that will happen in the fall.

One homeowner asked about the Pavilion expenses. Stuart reviewed that all five (5) HOA's or 167 homeowners pay \$60 a year for the expenses to the pavilion. This year the concrete

overlay is cracking and will need to be repaired and resealed. Dave has someone come in and pressure wash the inside due to the birds that fly in. All these expenses are shared amongst the five (5) HOA's.

Stuart also mentioned the mailboxes in the community will need to be updated. The Board may not do this all at one time but will be discussing this at a later meeting.

CONTRACT NEGOTIATION BY BOARD. John asked for a motion allowing the Board to negotiate and execute potential longer-term contract(s). Anita Cole so moved, and Rita Livingstone seconded; the motion passed with unanimous approval.

ELECTION OF DIRECTORS: The current Board has decided to run except for Gregg Faul. Dawn Underwood has agreed to run for the Board. Dawn introduced herself and has lived in EBWCA for one year and a half and is a member of the Design Review Committee.

John asked if there were any nominations from the floor and no names were brought forward and Anita Cole made a motion to close the nomination this was seconded by Kevin Kleckner. The ballots were marked and counted by Dave Roberts who announced that the slate that was presented have been elected.

APPROVAL OF MINUTES OF 2019 ANNUAL MEETING: Anita made a motion to approve seconded by Dawn Underwood. Motion passed with all in favor.

Adjournment at 4:30 p.m.

Bugsy Yarbrough Recording Secretary.

Approved unanimously at the 2021 EBWCA Annual Meeting on August 5, 2021.

A handwritten signature in black ink, appearing to read 'John Cannon', is written over a horizontal line.

Signed August 6, 2021

John Cannon, President
Eagle Bend West Community Association, Inc.