

MINUTES OF THE CHPOA BOARD MEETING: November 17, 2023

Present: Tom Moretti	President
Jim McCormick	Vice President
Johnnie Buzak	Treasurer
Amanda Luchsinger	Secretary
Bob Leavitt	Director
David Born	Director
Libby Rehm	Director
Sally Parks	Director
Absent: Mike Wold	Director
Janice Bridge	Director

Minutes from August 3rd, 2023: Motion was made to approve the minutes, seconded, and unanimously approved.

MEETING CALLED TO ORDER 14:06, November 17th, 2023

1. **Finances.** (See Appendix A) Treasurer Johnnie presented an informal financial statement, outlining current bank balance, recent expenses and donations. We have received some generous Friends of Carriage Hills donations and some Go Fund Me amounts from the website and Facebook, intended as contributions to legal expenses regarding proposed needed updates to covenants and bylaws. Johnnie brought up that he has some checks still needing deposit and that more complete and formal financial statements will be forthcoming.
2. **Newsletter.** Fall/Winter 2023/2024 Newsletter was prepared and distributed by Tom Moretti, President, and has been well received by CHPOA members, and it has been commented on as helpful. Vice President Jim feels it is vitally important to continue the Newsletter, in spite of the costs, and all Board Members were in agreement. Brief mention of the potential of securing paid advertising. Treasurer Johnnie remarked that we seem to have more early payments for 2024 since the newsletter was released, which has historically been the case.
3. **Slash removal.** President Tom noted that the town of Estes Park is seeking to extend the 1A 1% sales tax next year, to be voted on by local residents in April 2024, with plans to use the funds to help increase funding for fire mitigation projects and stormwater runoff projects, as well as hardening of the electrical system. Part of the percentage for the fire department is proposed to be used for the hiring of three employees and equipment for wildfire mitigation, and there is a potential Carriage Hills might be able to obtain assistance from the fire department regarding slash removal. Further ideas regarding potential reduction in cost for slash removal are being considered by the Board, tabled for discussion at a later date.
4. **Attorney Letter and Opinions.** After a meeting with Carl Robicheaux, Attorney at Elkhorn Law Office, a memorandum was received and reviewed by Board Members. President Tom Moretti replied to the memorandum with further questions, which were then responded to by Attorney Robicheaux. A discussion of some of the points in these communications took place at this Board meeting:

- a. **Mandatory Dues.** It was felt that this might help engagement of the Carriage Hills community. Tom and Bob feel that we now have a Board direction with the new Board members that make continuing the POA viable. Without adequate funding, however, there is a potential for the CHPOA becoming inactive from lack of funds and lack of participation, which the current Board hopes to avoid. It is not legally possible to disband the POA.

Mandatory dues would require a covenant change, with a vote by CHPOA members, secured by signatures obtained, for example, with a registered letter, or with Docusign. A 51% majority is required within each filing. Mandatory dues would change the status of the CHPOA to a CIC (Common Interest Community,) allowing the CHPOA to enforce covenants. Legal assistance would be needed to make the changes.

A discussion about CIC status was held. President Moretti noted that CIC laws were set up in 1992, but cannot be applied retroactively, and he does not feel, contrary to some opinions expressed by the consulting attorney, that the CHPOA is already an established CIC, particularly since we do not have any common ground that is under the CHPOA jurisdiction, and we do not have mandatory dues. We have a sign at the entrance to Carriage Hills, but that was coordinated with the town and is on CDOT property, with the CHPOA paying for sign insurance. The pillars adjacent to where the sign stands were built when the development was originally built. Given the difference of opinions between the attorney and the CHPOA Board members, concern as to whether we have the attorney we really need was expressed by Vice President Jim McCormick, and a request for consideration of a second opinion was voiced. **Action item:** Tom will re-visit some of these issues with a previously contacted Denver attorney and see if he can get a fee assessment for using that attorney. There is also the potential that a local retired attorney with HOA experience may be willing to look at the issue, and President Tom will attempt to reach out to her.

- b. **Dues Increase.** This was presented to the CHPOA members at the Annual Meeting in August, with prior notice of the discussion presented in the Facebook post and newsletter ahead of the meeting by at least 30 days, as required. A show of hands vote was taken with a clear majority noted (67% needed and ~95% noted) and no vocalized opposition. Names of members attending the meeting were recorded, although not the names of those voting in favor. The Bylaws, per prerogative of the Executive Board and the noted vote, have therefore been amended to reflect the new dues for 2024. These will be \$60, but with a \$10 discount for payment before March 31st, making them \$50. Residents moving into the community after April 1st will only pay \$50. Bylaws amendment is attached as Appendix B. This change to the Bylaws will be finalized at the next annual meeting by resolution, with a vote taken only from dues-paying members.
- c. **Covenant Amendments and Clarifications.** Whereas covenants may be “clarified,” with care taken to not actually amend them, by the CHPOA board via resolution, and then filing them with the county, actual covenant amendments and changes to Bylaws require a vote from the membership. For covenants, this would be a simple majority vote (51%) within each Filing, with the appropriate procedural steps (such as sending a registered letter announcing the proposed amendment and requesting a vote.) Bylaws require at least 30 days’s notice of proposed discussion of changes, and an in-person vote, with at least 67% majority.

Meanwhile, President Tom felt that we can improve our covenants very quickly with some simple clarifications, such as better defining a “nuisance” and our architectural controls.

Director Libby felt that it is important to clearly define who gets to vote on actual amendment or Bylaw changes. There is a somewhat complicated situation in Carriage Hills, whereas Filings 1-5 and 8 share similar covenants, but areas Sanborn, Hooper and Harding and Filings 6 and 7 differ. The consulted attorney was unable to find information about these latter areas, but Bob pointed out that the information is readily available, including through the CHPOA website. Libby felt we needed clear definitions regarding scope and jurisdiction before beginning any amendment process, and Vice President Jim suggested we focus on Filings 1-5 and 8 for the time being and address other areas later, perhaps inviting the residents of the outlier areas to join us and sign on to any new amendments to the Covenants. Libby also suggested that we have any clarifications that are undertaken drafted by the Board, but reviewed by legal counsel, and Bob also felt that voting processes should be reviewed similarly.

Other considerations were the use of “redlining” of the changes in amendments, to show the old and new wording, to clarify the changes for the membership.

Throughout the discussions, references were made to the memorandum from Attorney Robicheaux and President Moretti’s responses to some of the statements in the memorandum, as well as to Attorney Robicheaux’ subsequent responses to Tom Moretti’s questions.

5. **Nuisances and Architectural Reviews.** President Moretti presented some ideas for clarification of what constitutes a nuisance, with consideration of clarifying issues of outdoor lighting; non-secured trash; exceeding County maximum on vehicles on a property, or vehicles in non-functioning capacity, as examples. A particular concern was compliance with EVFPD or County recommended fire mitigation conducted by the homeowner on their own property. A discussion was held about the potential for community education, although a considerable amount of this has already be provided at the 2023 Annual Meeting and via newsletters. Lot usage was another issue of concern. **Action item:** Director Libby agreed to take on the project of assessing the nuisance language, starting with a review of the current resolutions.

There is a current nuisance violation in terms of peeling paint and fencing in disrepair on a short-term rental property on Carriage Drive. **Action item:** Secretary Amanda Luchsinger will write a letter to the property manager of said rental, asking them to correct the peeling paint nuisance violation.

As regards architectural reviews, there exists already an architectural review committee. **Action item:** Architectural Review Committee Member Jim McCormick agreed to take on a reassessment of some of these criteria, with consideration of adding language about color schemes, wooden fencing types, fencing to avoid impeding wildlife corridors, including avoidance of fencing around an entire property; avoidance of chain link fencing, except for small areas of dog runs; following of County code compliance; accessory dwelling units (ADUs.) **Action item:** President Moretti agreed to undertake a review of lot usage.

Motion was made to adjourn the meeting, seconded and unanimously approved. Meeting was adjourned at 16:10 pm.

Submitted by Amanda Luchsinger, Secretary, November 18th, 2023

Minutes approved by the CHPOA Executive Board via email communication, November 24, 2023