

## DESERT GREENS 2001 HOA EXECUTIVE BOARD MEETING

DATE: November 7, 2019  
PRESENT: Buzz Heldt, President; Jerry Holmes, Vice President; Dennis Suter, Treasurer  
Arlene Chandler, Director  
Linda Axford: Secretary for the Board  
ABSENT: None  
HOMEOWNERS: See attached  
CALLED TO ORDER: 9:05 a.m.  
ADJOURNED: 10:29 a.m.

### AGENDA ITEMS:

Minutes to be approved: October 8 & 24, 2019 - Jerry H. made a motion to accept the minutes; Arlene C. 2<sup>nd</sup>. All in favor. Minutes accepted.

Financial Report: Dennis S. - Is working on 2020 budget. The HOA is in good financial shape. Oct 31<sup>st</sup> Profit & Loss report indicates we have about \$327,000 in Reserves and are ahead on income against expected expenses. May have about \$20,000 surplus at the end of the year over projected expenses. Arlene C.: Does that take in the well expenses? Dennis S.: Expenses for the well have been paid and the projected repair could be \$4,000 - \$5,000 for the chemicals (per Jerry H.). So that projected expense is covered. Currently income to Oct is roughly \$406,000 and expenses \$383,000. Budget needs to be delivered to residents by Dec 1.

Arlene C. made a motion to accept the financial report. Jerry H. 2<sup>nd</sup>. All in favor.

### OLD BUSINESS:

1. Pay Increase for Kim Pointe: Buzz H.: Suggests an increase from \$14.00 to \$15.50. No raise since 7/18/2016: She will be doing more work with a new Treasurer coming on for the new Board. Jerry H.: this would be an increase of \$64 vs. \$110 / month (\$1 vs. \$1.50/hr. increase). Jerry H. made a motion to give a \$1.50 increase. Arlene C. 2<sup>nd</sup> Buzz H.: When to start? Suggests retroactive to first pay period in Oct. All agreed. Dennis S. made a motion to make the raise retroactive to the first pay period in October. Jerry H. 2<sup>nd</sup>. All in favor. Motion passed.

2. Minimum wage salary for Fran Becker: Fran has been training as a volunteer with Kim and is becoming familiar with many things in the office. Suggests giving her a minimum wage for when she is replacing Kim. (\$8.25/ hr). Discussion: Dennis S.: Explain the difference with volunteer vs. paid hours. Linda A.: Once she is an employee, she needs to be paid all hours she is working. Dennis S. made a motion to include Fran Becker as an employee for \$8.25/hr for hours she is called in to replace our office manager starting Nov. 1. Jerry 2<sup>nd</sup>. All in favor.

3. Lessees running for a Board Director and voting in the annual Board elections: Buzz H.: Darren P. has already given a presentation to the four Board members regarding this. Buzz would like them to be able to run for office and to vote for HOA Board. If we allow this, project that we have less than 10% chance of a lawsuit. If don't allow this, have a 100% of lawsuit from Pedley Family LLC. We have talked many times to Gregory Kerr, Esq (Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP) and are not satisfied with his responses. One problem for us is the definition of the term "owner". see pg. 87 NRS 116.31034. (see below) The term "owner" refers to lot owners. We have one attorney saying the lessees qualify as lot owners and yet our attorney has said no they do not. We just want this settled. Maybe the best way is to let a judge decide. The Board is not happy with our attorney's slow, and at times seemingly inadequate response. Jerry H.: (Question to Darren): Have you investigated other HOAs who are in our situation? Darren P.: There aren't any others. Because of the 99-year lease, other state agencies (IRS & VA considers it ownership, county assessor, CC&R's define it as ownership have considered these homeowners as equivalent to lot owners. States our own CC&R's considers it ownership: see section 1.37 defining "lot Owner";

*“Lot Owner” shall mean the Person or Persons, including Declarant, that is holder of fee simple interest of record in a Lot, excluding persons holding title as security for the performance of an obligation. Buyers under executory contracts of sale shall be deemed “Owners” for purposes hereof, so long as the Board has received written notification by certified mail return receipt requested, of such valid, legally binding executory contracts of sale. (pg. 5)*

Transfer of ownership fee should give them full member rights upon joining the HOA. You should not charge that fee and then tell them they are less than owners. Our attorney has backed up our arguments and yet your attorney, Greg Kerr, Esq., has not. If a judge needs to decide, let an owner who is against it sue.

Buzz H.: We need to make a decision.

Jerry H.: Chances of an individual bringing a lawsuit is minimum. Discussion about consequences both ways.

Darren P.: Pedley Family LLC. would pay the expenses if one of our HOA members/ homeowners sues the HOA for allowing lessees to vote and run for the Board.

Buzz H.: Would like to approve the lessees equal voting rights and the right to run for a Board position.

Jerry H.: Made a motion to allow homeowners with the 99-year lease to vote in all aspects of membership rights and to serve on the board. There was no 2<sup>nd</sup>.

Dennis S.: No reason it needs to be done today. Cut off date for application for a position on the Board is past. The next Board should make that decision.

Darren P.: That is weak and crazy. HOA's attorney has not proved his opinion. Ours has. My lessees want to vote now.

Dennis: There is no election, so it is immaterial at this point.

Darren P.: This Board should be able to research the issue and make a decision. The declarant, according to the CC&R's and NRS says 116.089 (pg. 34). Is able to both remove from and appoint to the Board. Will do it right now and vote. (*NRS 116.089.7: “Special Declarant’s rights” defined. 7. Appoint or remove any officer of the association or any master association or any member of an executive board during any period of declarant’s control.*)

Arlene C. made a motion to table this issue. Buzz H. 2<sup>nd</sup>. All in favor.

Buzz: Not happy with our attorney. Thinks ought to find another attorney. Brief discussion about other choices for legal counsel.

## NEW BUSINESS

1. New / replacement of signs throughout community: Examples - No solicitors, Caution Narrow Roadway, etc. Requesting approval to get new signs . not more than a couple hundred dollars.

Dennis: get estimates and present to Board. Dennis S. made a motion to research and obtain bids and bring back to the Board. Arlene C. 2<sup>nd</sup>. All in favor.

2. Only four (4) applicants for the Board . Schedule a %Meet the Candidates+forum?

Darren Proux , Micahel Mouer, Loui DeCanio, Michael Heldt; one applicant, a lessee, was declined Do not need an election. Mixed opinions on whether this is necessary. No decision made.

3. Jerry H.: Still have cart problems. Investigated a lease program. See attached. Concerned there is no maintenance included in the lease. We can buy for less than the lease, so the lease of a used cart doesn't seem to offer any advantage. Our current carts were purchased in 2015 (used) they are already 4-5 years of use. If there were a maintenance contract included, that would make a better deal for us.

Request motion to spend up to \$4,500 for a new used cart. Dennis S. made a motion to authorize Jerry H. to investigate and purchase a club cart not to exceed \$4,500. Buzz 2<sup>nd</sup>. All in favor.

Meeting Tuesday Nov 26 0900 to work on the 2020 budgets.

## HOMEOWNERS:

Comments about giving vote to the lessees. Board needs to show some leadership and take a chance. We might set a precedent because there are no other known HOA's like us. Darren has given obligation to back the Board up if there are legal problems with this issue should the Board approve allowing

lessees to vote in Board elections and run for a position on the Board. Not good to have so many unhappy people here. They are selling and moving.

Michael C.: What happens to the surplus in the operating budget at the end of the year? Dennis S.: Some may be left in the operating fund and the rest turned over to the Reserve Budget. About \$5,500/month goes into the Reserves. Also feels the lessees should be able to vote at Board elections and run for a member on the Board. It would be advantage to the HOA to have the lessees vote rather than Pedley Family LLC have all the votes.

Wanted the *Meet the Candidates* night . wants to be able to talk to them face to face. On Riviera about two weeks ago someone was speeding down Hilton Head in a golf cart and had no lights . spoke to them . they said %We don't know how to turn them on.+Conversation about the continued speeding within the community. Buzz: we are limited on what we can do. It goes in every month. Senior Moments. Can't use a radar gun; can't put in rumble strips. (due to EMS)

Michael M.: Agrees that the lessees should be able to vote & run for the Board. Thinks Darren is correct in his interpretation of the CC&R's and NRS. Dennis S.: Agrees but thinks there is no need for a vote today. Due to the time factor, let the next Board resolve this issue. Michael M.: If there is no precedent set, we are in much less liability if we set one.

Buzz H.: Our attorney has differed from Pedley Family LLC's attorney in his counsel to us.

Arlene C.: Also wants them to have the vote, but thinks our CC&R's define an HOA member as the lot owner.

Jerry H. made a motion to adjourn the meeting; Arlene 2<sup>nd</sup>. All in favor. Meeting adjourned.

ADJOURNED: 10:29 a.m.

SUBMITTED BY: Linda Axford, Secretary