

HERITAGE ESTATES PROPERTY OWNERS ASSOCIATION
MINUTES FOR BOARD OF DIRECTORS MEETING VIA VIDEO CALL
SUNDAY FEBRUARY 11, 2024

Directors present: Duane Esarey, President; Jimmy Copeland, Vice President; Paula Shepherd, Secretary; Janet Johnson, Treasurer; Michele Nowak, Assistant Treasurer; Gay Cass, director at large and Michael Shepherd, Architectural Review Committee (for the ARC discussion). At 1:15 pm, on Sunday, February 11, 2024, President Duane Esarey declared a quorum and called the meeting to order.

News

- Large tree in ROW (lot 23) removed and hauled away – multi day job (J. Nowak, D. Esarey, C. Jordan)

Secretary Report

- Minutes from **Dec 21, 2023 BOD meeting** and **Dec 29, 2023 – Jan 5, 2024 BOD email actions** were reviewed. Michele made a motion, seconded by Janet, to accept both minutes. Motion passed.

Treasurers Report

- **Reserve Study** was reviewed. Paula made a motion, seconded by Jimmy, to approve as our finalized Reserve Study to be posted with a minor change from stating a fixed number of lots to a formula.
 - Reserve study generates an annual depreciation rate for our maintained properties to determine how much money is needed to fund reserves (roads, gazebo, guard rail, etc.). It should be updated every 3-5 years.
- Based on historical costs, depreciation, road study, and useful years of life, Janet calculated we need \$10,080 per year for our Reserve Account (this figure is independent of annual operating costs).
- We must cover a \$44,000 shortfall from the previous Treasurer using Reserve money to pay operating expenses, in addition to not collecting enough to cover annual depreciation costs.
- **Income Tax Return:** Janet completed the annual IRS return. Jimmy and Michele reviewed it.
- Although we owe a flat 30% tax on the approximately \$1700 interest earned in less than a year, we come out ahead. The IRS requires payment by wire, not check, which Janet will take care of through the bank.
- Duane made a motion, seconded by Michele, to submit the indicated taxes to the IRS.

2023 Annual Financial Report

Update on risks the Board has mitigated.

- HEPOA has obtained valid theft, liability, and D&O insurance.
- Bank accounts are now properly owned by HEPOA and are corporate accounts.
- **Update on risks the Board has not mitigated** Operating and Reserve account funds were comingled until 2022, contra IRS regulations.
- Members thought we had a surplus but operating funds were in deficit of at least \$19,000 by 2021. 47F and IRS both forbid annual surplus operating funds for our type of organization. Our “apparent surpluses” were actually comingled Reserve Funds being reported as operating surpluses.
- The main impetus for straightening out the financial records was the 2022 auditor’s advice that we have accurate historical data ready in case of a future IRS audit.
- After a massive effort to go through years of paper records, Janet and Duane calculated the true state of HEPOA finances for each year since 2008. It became clear the community was not taking in enough money to support annual operating costs and was using reserve account money to make up the shortfall. This left the community short for future reserve needs as well as putting us at risk for IRS penalties. Digitizing these paper records made it possible to discover that not all lots were being assessed.

- There was discussion whether to leave the old misleading financial reports on the website, post both old and new, or post only the new reports. The Board agreed to leave the old ones as a historical record (noting that the accurate reports are available to anyone on request). The last two years (2022 and 2023) are accurate.
- Former treasurer allowed members to stop paying assessments for five lots, with no reporting to the Board or members.
 - The community has lost about \$13,000 (with interest) due to non-payment on 5 lots.
- **2023 Treasurers Report** (75th day posting deadline is March 15, 2024). Paula made a motion, seconded by Duane to approve the Treasurers Report. The motion passed.

Contingency Fund Status

- Our \$2500 contingency fund for 2024 has been used to pay legal fees for responding to a threat of legal action. We have provided another \$2500 for a retainer (which we hope to get back).
 - Note that our 2024 budget was figured on 54 lots although it is unclear if the five lots in question will pay this year.
- Janet proposed formally borrowing \$4000 from the Reserve Fund to be paid back over 10 years. She will provide the Board a written plan for repaying the borrowed money including the interest that would be earned at the money market rate, adjusted annually. Janet made a motion, seconded by Jimmy, to accept the borrowing/repayment option. Motion passed.
- In future years, we need to consider having a larger contingency fund. We are still using a cash accounting system. This is simplified now that bills are paid in the same calendar year that the expenses occur, and assessments are collected in the same calendar year.

Old Business

- **Architectural Review Committee (ARC) document**
 - There are 5 different checklists (new residence, permanent outbuilding on lot with a residence, permanent outbuilding on lot adjacent to residence, repairs or remodeling, and lot use with no residence).
 - Discussion about a lot owner possibly asking to increase garage size although there is no residence on the lot. The Board agreed that would not be permissible under our existing guidelines.
 - Duane added graphic to help lot owners figure out 20' setbacks and right of way.
 - Michael suggested adding that outbuilding construction and its placement on the lot needs ARC approval in advance. Other sections were revised to include this requirement.
 - Suggested ARC requires a copy of County approved lot consolidation before a member can build on a lot adjacent to a residence. That will prevent selling a lot containing only an outbuilding).
 - What exactly does a member need to submit to the ARC? Besides the square foot minimum, the main concern is lot placement (footprint) of the structure.
 - Document revised to say lot placement, design drawings and construction plans to be submitted and approved in advance.
 - Duane made a motion, seconded by Jimmy to accept the revised ARC document. Motion passed.
- **Declaration/Restrictive Covenants revision plans**
- Although revised in 2021, some of the Declarant's items were left in the Declaration that no longer apply to the needs of our community and some new items need to be added. Duane suggested revising the Covenants/Declaration this year, because:
 - we need to remove rights exclusive to the Declarant in Articles 1 and 2.
 - we have never had enforcement mechanisms if various Declaration rules are violated,
 - we need to remove the hard wired assessment set as a reserve/road fee by the Declarant in 1999, replacing it with assessment procedures compliant to 47F,

- the entire document needs to be filed in a “revised and restated format” for clarity/coherence.
- Revising the Covenants requires 2/3rd approval of all possible votes.

New Business

- **Comparison of HOA Costs in Ashe County**
 - Duane examined 150 HOAs in Ashe County and found assessment costs for 85 of them. He displayed a spreadsheet listing HOAs from highest to lowest assessments.
 - Observations:
 - There was a significant range of assessments.
 - The highest were over \$5,000 a year for neighborhoods with amenities like gated entries, paved roads, and full-time caretakers.
 - The lowest were under \$50 a year, typically for places with gravel roads. Many of these communities were in poor condition with washed out gravel roads or clearly aging paved roads.
 - Only a few HOAs in the \$300-\$400 range had paved roads, much less a river front common area.
 - Implications:
 - ***HEPOA assessments are near the bottom for communities with paved roads.***
 - The spreadsheet demonstrates that increasing our assessment to \$400 might be reasonable.
 - This seems more so the case because our assessments have not historically been based on our actual costs to operate and save the appropriate level of reserves.

The Board met in Closed Session 2:50 pm – 3:38 pm

Emerging from the closed session, Duane made a motion to adjourn, seconded by Jimmy. Motion passed. Meeting ended at 3:44 pm

Respectfully submitted,
Paula C. Shepherd (Secretary)

HERITAGE ESTATES PROPERTY OWNERS ASSOCIATION, INC., is a non-profit corporation empowered under the Planned Community Act (§ 47F-3-102) and other laws of the State of North Carolina to serve the interests, uses, and benefits of our community, and to enforce the real covenants in order to preserve appearance and property values to which the Declaration and Bylaws have been made applicable. Member’s per lot rights and obligations under the Declaration and Bylaws are allocated memberships, assessments, and voting rights as defined in NCGS § 47F-1 (103) (2-6) and further detailed in the Declaration and Bylaws.