

Cherry Hills Subdivision POA
Membership Meeting Minutes

January 10, 2017

Members present: Daniel Popvich, Cara Railey, Angie Bullock, Bill and Shelly Lange, Pat Colson, Gerry Link, April Gebken, Rebecca Sullins, Brooke Burke, Pat Byram, Dan Reed, Bill and Stephanie Voorhis, Josh and Kate Donham, Brandon West, Scott Cannon, John and Jan Maempa, Larry "Sonny" Saxton, Amanda Johnson, Asa Ferguson, Trent Bullock, Kevin Mitchell

6:03: Cara meeting call to order. Introductions of Board.

6:04: Members reviewed minutes from October 11, 2016. Motion to approve by April Gebken. Second by Dan Reed. Minutes approved by unanimous vote.

Financial

6:05: Daniel presented 2017 financial information and budget. Expenses \$10,000. 12/31/16 ending balance \$8059.67. We have not receive an October invoice from All Season Lawn & Landscaping. Gerry Link asked about the landscaping company spraying for pests in regards to last meeting. Daniel stated that he has been unable to get a response from the company and will be moving forward with addressing the company to set up services for next year. Gerry suggested to start looking for new company. Bill Lange motioned to approve budget. Gerry second. Budget approved by unanimous vote. Daniel stated by February we should have a bid in for landscaping company for this year.

Daniel reminded people to check the website and Nextdoor for most current information.

Old Business

6:14: Cara stated due to time restrictions with the library space from last meeting we would continue the discussion today. Last meeting a motion was made to keep the current service with Ozark Mountain with a second. Cara stated that we do not need to vote to keep the company. She also stated that we don't have a contract with the trash company. Ozark Mountain bills homeowners individually. Other bids were higher and did not bill individually, only the POA as a whole. The Board would then have to collect for trash services. Current board and last board communicated with company about the maintenance of the trucks. It is not reasonable to think they are the only ones making stains on the street. Pat asked if Greene County regulates sanitation. Gerry stated that our collector is maintaining the truck and it's up to the homeowners to keep liquids out of trash. Shelly stated that she is concerned with recycling but has not yet contacted Ozark Mountain. She stated she would not mind paying more if they maintained their trucks better. Gerry stated recycling people are to clean up spills with litter. Bill asked if it is correct to say the current trash service is used because they bill home individually.

New business

6:22: Cara read cover letter of the proposed petition. "A small group of CHPOA residents acting on behalf of concerned property owners are submitting 47 proxy votes to adapt the following motion at the January 10, 2017 CHPOA meeting. AS A CONCERNED PROPERTY OWNER IN REGARDS TO MAINTAINING MY PROPERTY VALUES, MY SIGNATURE TO THIS PETITION ACKNOLEDGES THAT ARTICLE IX, SECTION 13 BE ADHEARED TO BY ALL PROPERTY OWNERS WITHOUT REVISION, ALTERATIONS OR VARIANCE.

ENCLOSED ARE TEN (10) SHEETS OF SIGNATURES, WITH ADDRESS AND PHONE NUMBER AS REQUIRED BY CHPOA COVENANTS/BYLAWS” Cara continued to read from the petition, “Article IX, section 13: ‘in no event shall such containers be maintained so as to be visible from the neighboring property(s) except to make the same available for collection and then, only for the shortest time reasonably necessary to effect such collection.’ As a concerned property owner in regards to maintaining my property values my signature to this petition acknowledges the Article IX, Section 13 be adhered to by all property owners without revision, alterations or variance.”

Cara then read Article IX Section 13 from the bylaws, “Article IX, Section 13: Trash Containers and Collection. No garbage or trash shall be placed or kept on any property within Cherry Hills Subdivision except in covered containers of a standard type approved by the Association. The Association shall select a company for weekly trash disposal service for CHERRY HILLS SUBDIVISION. All residents of CHERRY HILLS SUBDIVISION shall be required to use this company and no other trash disposal service shall be permitted. In no event shall such containers be maintained so as to be visible from Neighboring Property except to make the same available for collection and then, only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot and no burning in the open will be permitted.”

Cara explained according to the current bylaw, we all have to use the same company and same containers. The issue is that some containers are visible from neighboring properties, which is defined in the bylaws. This proposed amendment says that we can never have a variance, alteration, or revision and containers would have to be in the garage or backyard. Currently a variance can be submitted if the garbage container cannot be stored inside. The current and last board addressed cans left at bottom of driveway with violation letters. As a Board, we do not patrol the neighborhood looking for violators. We do want neighbors to let board know if a close neighbor is violating a bylaw that causes problems. This Board finds it unreasonable to keep trash in garage rather than a vehicle.

Daniel stated that he drove the neighborhood this morning and found 17 properties that have their cans alongside the house. 15 of those do not have a variance. To find all 17 he said he drove at a very slow pace and had to search for some. Not one property had a container at the end of the driveway.

Pat Colsen stated that she walks the neighborhood often and does see the cans.

Cara stated that this amendment would say no variance, amendment, or revision can ever be made.

Gerry stated that he feels the Board exceeded their powers by allowing cans outside. He stated that or Covenants/Bylaws are a contract and gives the board permission to trespass if needed to address violations. He stated that even if you don't like it, you have to live with it because you agreed to the bylaws.

Cara stated the Board would have to hire an attorney to file this proposed amendment and stressed that Gerry has made a good point that we need a reasonable board to enforce the bylaws. Gerry stated we need 66% of the members to make changes.

Cara stated we could amend the bylaw to make it more reasonable hiring an attorney and filing with the county.

Sonny asked for the president's interpretation of petition and proxy votes.

Cara stated that we, as a Board, have concerns of the validity. Sonny asked to view petition. Brandon asked who passed the petition around the neighborhood. April stated that it was Dan Reed. Brandon commented that the petition came by his house and his wife signed. He also stated that the gentleman that came said he was not concerned with Brandon's house because his can is not in front of your garage door. Brandon then stated that his can is on the side of his home. Mervyn stated to Brandon that his can is out of sight. Brandon corrected him that it is indeed on the side of his home.

Gerry stated in 2009, 2010, 2012 regarding trash cans, the Board generally said "if your can must be outside then plant a bush or a tree."

Pat asked "what is the problem with putting it in the garage? Put it in a back yard." Asa stated Pat came to his house on Sunday. He said "I find it ridiculous that no one will admit to coming to house." He also stated that it doesn't feel that it is the right thing to do. Pat C. stated that she walks her dog every day. Sonny commented that his neighbor is an upstanding individual and it is unreasonable to tell him that his boat must be outside rather than a trash can.

Scott reminded the group that we will keep order. To Dan Reed, reminded him that we will have no more outburst or will ask you to leave. Dan shouted, "I will not leave."

Bill asked if the problem is on River Birch, why are no signatures from River Birch on the petition? He stated that he doesn't feel that it is reasonable to put cars outside rather than a trash can. He asked if it would be fair to ask new neighbors to not be able to store outside but current members are grandfathered with their variance.

Mervyn stated that he came a year ago to look at properties. He felt if there are a lot of cans in view it makes a difference on the appeal of the neighborhood. He said he noticed Wed-Fri there are still some cans at the street.

Cara asked for clarification of Mervyn's comment about Brandon's trash can outside his home. Mervyn stated he didn't inspect the location of the trash can. Cara commented that some take close inspection to locate. Mervyn stated "if it is out of sight, it isn't a problem."

Dan stated that Cara did not read the bylaw regarding trash cans and began reading it. He said the bylaws say "In no event shall such containers be maintained so as to be visible from Neighboring Property except to make the same available for collection and then, only for the shortest time reasonably necessary to effect such collection" Cara corrected him that she did, in fact read that.

Dan motioned "AS A CONCERNED PROPERTY OWNER IN REGARDS TO MAINTAINING MY PROPERTY VALUES, MY SIGNATURE TO THIS PETITION ACKNOWLEDGES THAT ARTICLE IX, SECTION 13 BE ADHEARED TO BY ALL PROPERTY OWNERS WITHOUT REVISION, ALTERATIONS OR VARIANCE. ENCLOSED ARE TEN (10) SHEETS OF SIGNATURES, WITH ADDRESS AND PHONE NUMBER AS REQUIRED BY CHPOA COVENANTS/BYLAWS" and stated that this Board of out of line to allow variance. He then asked for a second. Second by Gerry. Dan shouted "Call for the vote." Gerry said, "the motion is made."

Sonny asked Dan "why are you threatened by conversation?"

Scott stated following motion and a second we must allow a discussion. Gerry replied a vote can be amended. Scott repeated that after a motion is made, a discussion is allowed. Brooke stated that she quit coming to meetings because of Dan and Pat and the issues they complain about. She asked that they quit harassing the Board. She also commented that no one wants to be on the board due the harassment. She mentioned that they are so many other things we could worry about and this is not a problem to worry about.

April motioned to table the issue. Scott stated motion cannot be made at this time. Josh stated that this issue and process needs clarified. Scott replied that after a motion, a discussion can be held to clarify.

Dan tried calling for a vote. Cara reminded him that the Board is running this meeting. Scott said he would review Roberts Rules of Order. Gerry has a copy and lent it to Scott. Scott and Cara review. Scott states that will read the procedure. Gerry shouts, "no, I know what you are going to read." Entire room laughs.

Angie asks while we review the Rules, please be sure to sign in.

Scott read section from Roberts Rules of Order. Once a motion has been made and seconded, there are three basic steps that follow:

- 1) The assembly may debate the motion unless there is unanimous consent of the main motion; during this period of debate, subsequent motions may be made, which must also follow parliamentary procedure
- 2) The chair will call for a vote on the main motion
- 3) The chair will announce the results of the vote

Allison Farmer asks for clarification. She understands that there were 47 signatures, possible qualifying as a vote and asked "What about the other people that are not here to place a no vote."

Pat C. asked if only a few people don't comply, why are they so special that they don't have to comply. Josh asked if the people ask for signatures asked who had a variance.

Sonny if the petition was made to consider the motion, does a proxy vote count if the motion was made after the votes were collected? Cara replied that we are waiting to hear an answer to that from an attorney. Sonny stated that he is only asking questions and is not on either side of the issue. He stated he is just glad to hear the discussion. And Sonny stated his concerned that a vote was made prior to the motion. He had also not been approached.

Shelly asked "How do we know that the 47 signatures are valid. We live on River Birch and no one approached us."

Sonny mentioned this section also pertains to burning. Pat C. stated her back neighbor burns.

Scott stated, "as a homeowner, my can is in the garage. I am more concerned that this is done appropriately, I don't care who wins. The concern is that this amendment makes it to not ever be amended again."

Cara stated that we will have to take it to a vote, we will have to take it to an attorney to approve that this was done appropriately. Stephanie asked if anyone has approached the homeowners currently in

violation. She asked, "Why does it have to come to this? Can we have another solution; bushes etc.?" She stated she drove the neighborhood and could only see 5 trash cans and it was difficult at some of the homes. She said she thought this can be done more civilly.

Gerry asked of the treasurer, Daniel, "we had a fund for lawyers, is this fund now considered misc.?" Daniel replied that funds are allocated for anything we need. We have \$5000 available. As an association it would have to be decided on.

Dan stated, "this motion will not disparage you, this board gave special permission to not follow rules." Dan began to read email communications with the Board from Sept 6, 2016 regarding removal of trash cans and communication with board. He read the answer received, and mentioned that he notified the Board three times about repeat offenders. Dan quoted the bylaw again and continued to read through his emails to Board. Bill Lange asked him, "can we agree you have evidence?" Dan replied, "I have the floor." And continued to read his emails. He stated "after the notices, the problem got worse. The president told me that she can't put her trash inside due to her kids' bikes. "

Bill asked what if we send it to vote and the lawyer says the proxy votes don't count? He asked if we save some money without a lawyer and check on the proxy vote.

Scott stated "the outcome does not matter to me, what does matter is that it is done correctly. We should vote within the room, ask attorney about the proxy votes, then if the proxy votes are allowed count them in."

Sonny asked if everyone have an opportunity to proxy vote. He stated in the past everyone had an opportunity. He also shared that he felt Dan surprised the neighbors with these proxy votes.

Scott stated that the Board feels that this must go to an attorney. If the attorney finds that these are valid then we move forward. Dan said the Board should save money by allowing the proxy votes. Sonny said to Dan, "you made a mistake."

Asa stated the petition came to his house, but it may have been worded differently before.

Amanda Johnson said, "I signed, but did not feel that it was a vote. My understanding was that it should be discussed. I want to remove my vote from the list."

Sonny to Dan: "I would ask you to reconsider your motion to amend and vote at the next meeting." Dan replied, "no way. It solves nothing." Bill stated, "if your case is sound, why would you not wait for all 163 homeowners. My cans are in every night but we need to be careful. If you have this strong of a case you should send it to each home." Scott replied that every homeowner had an opportunity to be here tonight.

7:36: Cara we will call for a vote. She re-read the proposed amendment. We will use a roll call vote. Please stand for a YES vote. Dan Reed and Gerry Link stand to be counted. Two votes counted for a Yes vote. Please stand to vote No to the amendment. Daniel Popovich, Cara Railey, Bill Lange, Bill Voorhis, Josh Donham, Brandon West, Scott Cannon, John Maenapa, Allison Farmer, Larry "Sonny" Saxton, Amanda Johnson, Trent Bullock, and Kevin Mitchell stand to be counted for a NO vote. Two (2) votes are counted for Yes to amend and thirteen (13) are counted for No.

7:41: Scott stated, "we as a board will do due diligence to assure that this is done correctly and consult an attorney."

Informational Items

7:42: Cara stated that we need new members on the Board. This board has served the two year term and will not serve again. Everyone here has an accurate view of what it takes. The POA will continue as long as the proper paperwork is filed with the state. If the POA is dissolved, the county will assign a management company due to our retention ponds and as a neighborhood we would lose decision making abilities. Asa asked if it would raise costs. Cara replied, it could but we wouldn't know what that would look like. Gerry, mentioned the average HOA fees for neighborhoods with tennis courts and pools runs \$250 or more per year.

Sonny asked communication is required of the board. Cara stated the Board communicates through email and text mostly and have meetings when required. Average complaints from neighbors have been from about 6 homeowners, most complaints do come from one home in particular. Paperwork is minimal if done on time. Daniel has done a great job getting organized as treasurer. At times it is not easy, but someone needs to do it. Dan Reed asked about the process. Cara replied that we are asking for volunteers and then would take a vote. Asa asked about costs of dues if our POA was handled by an outside company. Cara stated that the Board has contacted a local management company and they would help with the administrative side but we would still need a Board. It was not a large increase.

Scott stated it would raise dues to approximately \$110 per year per home. Asa asked if we could be sure this information gets to every homeowner through mail. Scott assured that the Board would inform members. Sonny stated it would better for members to keep the POA and Board than to lose the control with an assigned management company. Dan stated that he recommends the Board to elect the officers and to be sure to communicate with the homeowners.

7:50- Cara opens floor for other items. Bill concerned about vandalism. He stated he doesn't care about the trash cans and is concerned about crime. Gerry stated that several years ago he communicated with the sheriff's dept. for more patrol. Josh stated that due to his job, he is up very early and does notice patrols in the mornings around our area. Bill stated that we may not actually have an increase in crime but are more aware due to the Nextdoor app and the amount of communication. Scott stated that he has added cameras to his home for additional security and reminded everyone to let the police know if there are any problems. Bill stated that he felt property values are more effected by crime than trash cans.

Asa mentioned stray cats and other animals. Scott added that we do have wild animals that come through the neighborhood.

Dan stated that we used to have "block leaders" and suggested that we have "block leaders" again that meet with the sheriff to address vandalism/crime. Dan motioned to have the Board add Block Leaders. Dan asked several people to second. No second to his motion. Bill suggested leaving this for the new Board.

Cara asked if there were any other issues for open floor. Bill motioned to adjourn. Second by Josh. Approved to adjourn.

Meeting adjourned at 7:54 pm.