

**Sparkling Waters Homeowners Association (SWHA)
Board of Directors (BOD) Meeting
January 5, 2021**

Participants:

Barry Graham, President
John Totty, Vice President
Alicia Graham, Secretary/Treasurer
John Stinson, Director-at-Large
Ellis Akins, Member
Joan and Chris Lio, Members
Aaron Brockmeier, Member
Nikki Kissel, office manager to Aaron Brockmeier
Tom Saxey, Member
Philip Broyles, Member
Susan Hodge, Member

1. Meeting conducted via Zoom video conference and commenced at 7:00PM CT. John Stinson joined in writing after the meeting. See the attached slides for details.
2. Agenda:
 - a. Community Dock Rebuild Update
 - b. Proposed Changes to the Covenants, Restrictions, and Reservations (CR&R)
 - c. Fines and Suspensions Procedures
 - d. Disciplinary action for rules violation
3. **Community Dock Rebuild Update.** Barry Graham briefed status on rebuilding the community dock. The previously selected contractor to make repairs to the community dock, Piers Plus, has not delivered a schedule nor started any work, despite being awarded the work on October 10th, 2020. Bayou Builders submitted a proposal. Barry explained that the Bayou Builders bid was lower than Piers Plus. Total cost: \$36,847 and that includes wrapping the new pilings in that bid. BOD unanimously approved the Bayou Builders proposal, cancelling the project with Piers Plus, and hiring Bayou Builders at the October 10th BOD meeting. The replacement power pedestals were ordered and received from Dock Boxes for \$3,569.75. Gulf Coast Electric out of Destin is the electrical contractor with a contract for \$7,988. Dock water, gazebo repairs, boardwalk repairs, and rebuilding the kayak racks will have to be self help projects. The total cost of the repair has gone down slightly from earlier estimates.
4. **Proposed Changes to the Covenants, Restrictions, and Reservations (CR&R).** Barry explained the cost share formula approved in October between slip assignees on the common dock and homeowners association and recommended that a special meeting (Zoom and in writing) be held to approve adding the cost share formula to the Covenants, Restrictions, and Reservations (CR&R). The directors **voted on and approved** having a special meeting to approve the recommended changes to the CR&R.
5. **Fines and Suspensions Procedures.** Fines and suspensions are allowed by Florida Statute and our governing documents
 - a. Penalties for violating governing documents or being late with payments include fines and suspensions— loss of access to HOA amenities and/or loss of voting rights.
 - b. HOA can impose reasonable fines, not to exceed \$100 for a violation of governing documents.
 - c. May impose additional \$100/day fine for continuing violation with single notice and opportunity of hearing.
 - d. Fines may not exceed \$1,000 in aggregate per violation.
 - e. Additional fines may be imposed for additional violations.
 - f. If fines over \$1,000 are not paid, the HOA can file a lien against the parcel.
 - g. Most fines or suspensions must be approved by the Fine and Suspension Appeals Committee at the hearing by a simple majority vote. Fines are due 14 days after the hearing.

- h. At least three members appointed by the Board--May not be an officer, director, or employee and not a family member of same.
 - i. Documents say HOA must provide owner 14 days notice of hearing. HOA Attorney, Becker & Poliakoff, recommends 20 days' notice to allow for US mail delivery.
6. **Disciplinary action for rules violation:** Parcel owner Aaron Brockmeier had short-term renters for a 7 day term over the holiday week (Christmas-New Year's). This violates paragraph 8 of the CR&R and section V of the Rules and Regulations. Association sent multiple notifications and warnings that short-term rentals were not allowed. CR&R and R&R call for \$100 fine plus additional fines for continued violation plus potential suspension of benefits.
- a. Mr Brockmeier and his office manager, Nikki Kissell, spoke when given the opportunity. Ms Kissell stated that they removed advertisement of the amenities in their short term rental ads. Mr Brockmeier said he was turning things over to his attorney and told us to stay off his property.
 - b. President Barry Graham proposed notifying owner Brockmeier that the Board was proposing a \$700 fine (\$100/day) and a Suspension of his rights to use the Sparkling Waters Amenities. The Board **voted on and approved** the fine and suspension as proposed.
 - c. President Barry Graham proposed notifying owner Brockmeier that a Fine and Suspension Appeals Committee hearing would be held on January 26, 2021 at 7PM CT and he is invited to present evidence and argument. The Board **voted on and approved** scheduling the meeting and notifying owner Brockmeier of the date and time.
 - d. President Barry Graham proposed appointing three members and two alternates to the Fine and Suspension Appeals Committee for the January 26, 2021 meeting. He proposed Bill Bushelle, Joan Lio, and Lisa Manion as the members, and Tom or Cindy Saxy, and Troy Russo as the alternates. The Board **voted on and approved** the proposed members and alternates.
7. BOD meeting adjourned at 7:51 PM CT.
8. Director-at-Large John Stinson joined the meeting in writing after the fact and voted in the following manner:
- a. On the proposal to schedule a Special Meeting to approve the proposed changes to the CR&R, Director Stinson votes: _____AYE _____NAY
 - b. On the proposal to fine Owner Brockmeier \$700 and suspend his use of Sparkling Waters Amenities, Director Stinson votes: _____AYE _____NAY
 - c. On the proposal to schedule a Fine and Suspension Appeals Committee hearing on January 26, 2021 at 7PM CT and notify owner Brockmeier of the same, Director Stinson votes: _____AYE _____NAY
 - d. On the proposal to appoint members and alternates to the Fine and Suspension Appeals Committee as noted above, Director Stinson votes: _____AYE
_____NAY

I certify that these are my votes on the issues before the Board of Directors

-signed-

John Stinson, SWHA Director-at-Large

Minutes as recorded by:

-signed-

Alicia Graham, SWHA Secretary/Treasurer

Approved by:

-signed-

Barry Graham, SWHA President

Sparkling Waters Homeowners Association

Board of Directors Meeting
January 5th, 2021

Running the Virtual Meeting

- Check-in when you first join
- This is a meeting for the Board of Directors
 - Non-director attendees will be muted by moderator
 - Directors will not be muted unless they self-mute
- Everyone has the opportunity to comment or ask questions
 - Raise your hand in the Zoom app
 - Wait for the moderator to un-mute you
 - You can also make comments/ask questions in chat
- Only directors vote

SWHA Board of Directors Mtg

- Rebuilding status and plans
- Proposed changes to the Covenants, Restrictions, and Reservations (CR&R)
- Fines and suspensions procedures
- Disciplinary actions

Rebuilding Status and Plans

- Community dock rebuild
 - Dock structure
 - Power pedestals
 - Electrical
 - Water
- Gazebo and boardwalk repairs
 - Railings, spindles, stringers, and decking
- Kayak racks

Dock Structural Repair

- Contractor is now Bayou Builders of Walton County
 - Replaced Piers Plus for lack of progress at emergency BoD meeting on Dec 22, 2020
 - Cost is \$847 less and includes wrap on all new pilings
 - Same specifications
 - Platform off Gazebo with two sets of stairs East/West and ramp going down to dock
 - Ledgers and joists to be 2x8 and decking to be 2x6 treated wood fastened by stainless steel hardware
 - Demolition scheduled to begin next week

Power Pedestals and Electrical

- Power pedestals ordered and received from DockBoxes - \$3,569.75
- Electrical contractor to be Gulf Coast Electric out of Destin
 - Contract is for \$7,988.00
 - Includes replacing everything from Gazebo fuse box to the power pedestals
 - Includes adding an outlet to the end of the dock for the fishing light
 - Will try to coordinate laying conduit with Bayou

Other Repairs – Self Help

- Water
 - Taps on South side of Gazebo, at each power pedestal, and at the end of the dock
- Gazebo repairs
 - Railing and spindles
 - Damaged decking boards
- Boardwalk repairs
 - Damaged stringers and decking
 - Damaged stairway North of gazebo
- Kayak racks

Cost Estimate for Rebuilding

Cost Sharing Formula

- The cost sharing approved in Oct 2020 was
 - Common walkway repairs (50% SA, 50% HOA)
 - Swim platform repairs (100% HOA)
 - Fish platform repairs (19% SA, 81% HOA)
 - Docking facility repairs (100% SA)
 - Power pedestals (100% SA)
 - Electrical and water (12/13ths SA, 1/13th HOA)
 - Miscellaneous walkway, gazebo, etc. repairs (100% HOA)

Cost Sharing Breakout (Est.)

Cost Element	Slip Assignees	Homeowners Assoc
Common Walkway	\$11,054.10	\$11,054.10
Swim Platform		4,912.93
Fish Platform	933.46	3,979.48
Slips/Finger Piers	4,912.93	
Power Pedestals	3,569.75	
Electrical	7,373.54	614.06
Water	1,846.15	153.85
Miscellaneous Repairs		1,000.00
Total	\$29,689.93	\$21,714.82
Per Unit	\$2,474.16	\$517.02

Financing the Rebuilding

- Financing plan

– Pay out of HOA checking	\$13,000.00
– Pay out of HOA reserve	10,043.08
– Pay out of dock checking	7,228.35
– Pay out of dock reserve	21,133.32
– Total	\$51,404.75

- No special assessment required
- Homeowners Association dues will stay at \$500
- Boat slip fees will increase to ~\$500/year

Proposed Changes to the CR&R

- Worked out sharing ratio of expenses for dock rebuild
- Recommend we add that sharing ratio formula to the CR&R
- Propose having a special meeting by Zoom and mail to approve the changes

CR&R Change #1

- Change sentence 4 of paragraph 17.3:
 - From: “Boat Slip Owners shall each be responsible for 1/12th share of the budget of the Slip Fees, with the exception of certain items, such as electricity, in which the Boat Slip Owners shall be responsible for their equitable share.”
 - To: “Boat Slip Owners shall each be responsible for 1/12th share of the budget of the Slip Fees, with the exception of certain items, such as electricity **and the cost of Community dock repairs**, in which the Boat Slip Owners shall be responsible for their equitable share **in accordance with paragraph 18.2.**”

Change #2

- Change sentence 5 of paragraph 18.2:
 - From: “The cost of repairing, replacing, and insuring the boat slips and Mooring Facility, as defined above, as well as an appropriate share of the Submerged Land Lease shall be the sole expense of the respective boat slip owners.”
 - To: “The cost of repairing, replacing, and insuring the boat slips and Mooring Facility, as defined above, as well as an appropriate share of the Submerged Land Lease and Community Dock repairs shall be a **shared the sole** expense of the respective boat slip owners in accordance with **Table 18.2.1 below.**”

Change #3

- Add the following Table after paragraph 18.2:

Table 18.2.1 Cost sharing formula for repair or replacement of community dock

Cost Element	Slip Assignee Share	HOA Share
Common walkway	50%	50%
Swimming platform	0%	100%
Fishing platform	19%	81%
Finger piers and other slip structures	100%	0%
Power pedestals	100%	0%
Electrical access and fixtures	92%	8%
Water access and fixtures	92%	8%

* All boat lift pilings, machinery, electrical, and other components are the responsibility of the individual slip owner

CR&R Changes Plan of Action

- Send out notice for Special meeting of the entire membership via Zoom, with a form for voting in writing
- Post changes to the web site and email to members
- Hold Special Meeting and gather written votes
- If approved, record changes in County records

Fine/Suspension Procedures

- Fines and suspensions are allowed by Florida Statute and our governing documents
 - Penalties for violating governing documents or being late with payments
 - Fines – monetary charge
 - Suspension – loss of access to HOA amenities and/or loss of voting rights
- Florida statutes have specific requirements as to how fines and suspensions can be imposed
 - Our governing documents implement the statute

Fines

- HOA can impose reasonable fines, not to exceed \$100 for a violation of governing documents
 - May impose additional \$100/day fine for continuing violation with single notice and opportunity of hearing
 - Fines may not exceed \$1,000 aggregate per violation
 - Additional fines may be imposed for additional violations
- If fines over \$1,000 are not paid, the HOA can file a lien against the parcel
 - Can foreclose on the lien and recover attorney's fees

Suspensions

- The HOA may suspend, for a reasonable period, the owner's use of common areas and facilities
 - For violation of the governing documents
 - Suspension also applies to tenants, guests, & invitees
 - Cannot prohibit ingress or egress from the parcel or limit the right to park (e.g. prohibit use of roads)
- The HOA may also suspend owner's privileges for failure to pay debts to the HOA for 90 days
- The HOA may also suspend owner's voting rights for failure to pay debts to the HOA for 90 days

Fine and Suspension Appeals Committee

- Most fines or suspensions must be approved by the Fine and Suspension Appeals Committee
 - At least three members appointed by the Board
 - May not be an officer, director, or employee and not a family member of same
 - Must approve all fines and all suspension except for loss of voting rights due to non-payment
- Board must provide the owner 14 days notice of hearing by the Fine and Suspension Appeals Committee

Fine and Suspension Appeals Committee (cont)

- If the Committee approves by fine or suspension by a simple majority, then it is imposed
 - Fines are due in 14 days
 - Suspensions take effect immediately and keys must be turned in
- If the Committee does not approve the fine or suspension by simple majority, it may not be imposed
- The Board will appoint three members and two alternates for each scheduled hearing
 - Our Committee will not have a fixed membership

Fine/Suspension Timeline

- (Day T-4) Board becomes aware of violation
- (Day T-3) Board provides 48 hrs meeting notice
- (Day T-1) Board meets to decide on proposed fines and suspensions
- (Day T) Board sends a letter to the parcel owner to notify them of:
 - Violations of governing documents at issue
 - Proposed fines or suspensions
 - Scheduled date for meeting of the Fines and Suspension Appeals Committee (nominally 20 days from the date of the letter)

Fine/Suspension Timeline (cont)

- (Day T+20) Fine and Suspension Appeals Committee meets, if fine/suspension is approved
- (Day T+20) Suspensions take effect, keys must be turned in immediately
- (Day T+34) Fines are due

- These timelines may overlap with one another if there are multiple violations
- Any questions?

Disciplinary Action

- Parcel owner Aaron Brockmeier had short-term renters for a 7 day term last week
 - This violates paragraph 8 of the CR&R and section V of the Rules and Regulations
 - Association sent multiple notifications and warnings that short-term rentals were not allowed
 - CR&R and R&R call for \$100 fine plus additional fines for continued violation plus potential suspension of benefits

Disciplinary Action (cont)

- Propose notifying owner Brockmeier that a fine and suspension of his right to use Sparkling Waters Amenities is being proposed
 - Fine for \$700 (\$100 for each day of the violation) is proposed
 - Suspension of his right to use Sparkling Waters amenities is proposed until such time as:
 - Owner Brockmeier takes down all Internet advertisement for short-term rentals of his property
 - Owner Brockmeier assures the Board of Directors in writing that he will no longer endeavor to rent his property for terms not allow by the governing documents

Disciplinary Action (cont)

- Propose notifying owner Brockmeier that a Fine and Suspension Appeals Committee hearing will be held on January 26, 2021 at 7PM CT and he is invited to present evidence and argument
- Propose appointing three members and two alternates to the Fine and Suspension Appeals Committee for the January 26, 2021 meeting
 - Alternates will only serve if the members are unable

Any Other Business
or
Questions?