

PROPOSED AMENDMENT TO ARTICLE FIVE OF HLPOA BYLAWS

On May 6, 2024, Mr. William Dobbs (Lot 31) proposed amendments to Article Five of the HLPOA Bylaws. Changes to the bylaws require a vote by the members of HLPOA and therefore it was presented at the annual meeting. Given the importance of the matter the membership desired to table the vote until a later date to allow a sub-committee to review and fully understand what exactly was being changed. That sub-committee consisted of William Dobbs, Frank Felts, Debra Bray and William Rice. This document gives the final draft of the proposed Amendment to Article Five of the bylaws with comments to make it clear what exactly is being changed and voted on. Each shaded area is a different part of the new proposed Amendment. **Comments that are bolded in the same shaded area are explanations of what exactly has changed in the text above it and the rationale for making the proposed changes**

The current Article Five of the Bylaws in its entirety is listed below with a blue outline for reference.

ARTICLE FIVE

DUES

The HLPOA shall have all the powers that are to be set out in its Articles of Incorporation and By-Laws and all other powers that belong to it by operation of law, including, but not limited to, the power to assess and collect from every member of the HLPOA, a uniform charge per lot within the Subdivision. The amount of such charge is to be determined by the Board of Directors of the HLPOA for the purposes for which the HLPOA is formed, payable annually.

Every person who shall become the legal owner of any lot in the subdivision by any means, is, by the act of acquiring such title, or by the act of contracting to acquire such title, held to have agreed to pay the Association all charges that the Association shall make in accordance with these By-Laws. If such payment is not made when due, it shall bear interest from the due date at the rate of fifteen (15) percent per annum. Until paid, such charges together with costs and reasonable attorney's fees required to enforce payment thereof, shall constitute a perpetual lien on and against the property charged. The Association may publish the name of a delinquent member and may foreclose the lien in accordance with the laws of the State of New Mexico.

There will be a building permit fee charged to the lot owner for new project construction to offset the increased maintenance costs associated with heavy construction equipment using the subdivision roads.

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Five

Dues, Assessments, Fees and Other Fiscal Matters

Section One Dues.

The *Corrected Declaration of Protective Covenants* [Restrictions] Article XV Subsections C and D in part state;

“The Association shall have all the powers that are to be set out in its Articles of Incorporation and By-Laws and all other powers that belong to it by operation of law, including (but not limited to) the power to assess and collect from every member of the Association a uniform monthly charge per single family residential lot within the Subdivision. The amount of such charge is to be determined by the Board of Directors of the Association for the purposes for which the Association is formed,”

“All charges are payable annually by the member to the Association on or before the first day of May of each year, for the ensuing year.”

“Every person who shall become the legal or equitable owner of any lot in the Subdivision by any means, is, by the act of acquiring such title, or by the act of contracting to acquire such title, held to have agreed to pay the Association all charges that the Association shall make in accordance with these restrictions. If such payment is not made when due, it shall bear interest from the due date at the rate of fifteen (15) percent per annum. Until paid, such charges together with costs and reasonable attorney’s fees required to enforce payment thereof, shall constitute a perpetual lien on and against the property charged. The Association may publish the names of a delinquent member and may file notice that it is the owner of a lien to secure payment of the unpaid charge plus costs and reasonable attorney’s fees and may foreclose the lien in accordance with the laws of the State of New Mexico.”

“The fund accumulated as a result of the charges levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the members of the Association and in particular, the maintenance of the roads and lake area.”

Comment: The italicized paragraphs above are verbatim from the covenants, absolutely nothing has changed, just making it clear by putting this in the Bylaws that these guidelines must be followed.

The charges (Dues) shall first be allocated for the recurring expenses needed to accomplish the purposes for which the Association was created, and second, to establish funds to offset the cost of extraordinary expenditures. These funds are to include and be prioritized as; 1. Cash Reserves, 2. Equipment Replacement and 3. General Fund. The amount of monies to be earmarked for these funds shall be included in the yearly budget. Reasonable caps may be placed on the funds.

Comment: Really nothing changed here other than making sure we separate out on the balance sheet our Cash Reserves, Equipment Replacement and General Operating Fund. It is difficult right now to track these separate funds. The “reasonable caps may be placed” is a new addition but that power would lie with the Board of Directors who would vote to make a decision if a cap were ever felt to be needed in the future

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Any increase in the amount of the charges (Dues) must be approved by at least a 6 - 1 vote of a full 7 member HLPOA Board of Directors.

Comment: This new requirement forces all members of the Board to participate in a vote to raise dues and does not allow dues to increase by a simple majority of a quorum. This is a good change because it doesn't allow a quick meeting to be called which only a few board members may be able to attend and then just a few make the important decision of a dues increase.

Dues may not be billed until after an approved yearly budget, along with its statement of fees, is distributed to the membership. Dues are encouraged to be paid within thirty days of billing, however, under no circumstances will dues be considered late or will penalties be assessed until after the first day of May of the billed year in accordance with the covenants.

Comment: The dues are DUE on May 1st per the covenants, this wording encourages them to be paid sooner but it is clear in the covenants that the DUE DATE is May 1st. The comment "may not be billed until there is an approved budget, along with its statement of fees, is distributed to members" is a new addition. The reason is that then if there is a dues increase it would make sense that there has been a budget approved and given to members for review which justifies the need to increase the dues.

Section Two Special Assessments.

Special Assessments may only be proposed for extraordinary expenditures that conform with the purposes for which the Association was formed.

All Special Assessments must be voted on and passed, by a simple majority of the members eligible to vote during the Annual Meeting or at a Special Meeting of the membership called solely to approve or disapprove the special assessment.

Voting shall be by either absentee ballot or by members represented at the meeting either in person, by proxy or passcode/password protected web conferencing.

Special Assessments will be billed thirty (30) days after they are passed and be due thirty (30) days after the billing date.

If the Special Assessment is not paid by its due date it will be subject to the same penalties as late dues.

Comment: This is a new section basically writing down the process that has been used in previous years after the initial Special Assessment was done and had a little backlash from members about the process that was used for the Special Assessment. This also includes an updated way for voting given new technology.

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Section Three Fees.

There will be a building permit/construction fee charged to the lot owner for new project construction to offset the increased maintenance costs associated with heavy construction equipment using the subdivision roads. Building permit/construction fees will be applied as stated in the *HLPOA Architectural Control Committee – Request for Approval Document*.

These building permit/construction fees will be maintained in a separate fund and used only in addition to budgeted road maintenance monies.

Any changes to the building permit/construction fee must be voted on and approved, by a simple majority of the members eligible to vote, during the Annual Meeting.

Any proposed new Fees, for any purpose, must be approved by a vote of the membership before they can be instituted.

Comment: This does establish a 4th fund that is for ROAD MAINTENANCE which makes sense since that was the rationale for assessing the fee (heavy equipment on the roads). This is referenced as stated in the ACC document.

To quote from the 2004 Annual Meeting minutes; “the President updated owners that the building fee to cover road maintenance due to damage from large trucks, used for construction, was set at \$1.00 per sq. ft. for heated living areas, garages, shops, barns or sheds, but decks and porches were excluded. She said that there was a \$500.minimum and a \$5,000 maximum”

Section Four Other Fiscal Matters.

Not less than twenty five (25) calendar days prior to the start of any fiscal year, the HLPOA Board shall propose and adopt a budget for the Association.

Within twenty (20) calendar days after the adoption of any proposed budget for the Association, the HLPOA Board shall provide a copy of the budget to all the lot owners which can be satisfied by electronic communication and/or posting it to the Hidden Lake Website.

The HLPOA Board shall provide to all lot owners a statement included with a copy of the annual budget listing all fees and fines that may be charged to a lot owner by the Association.

At least quarterly the HLPOA Board will post on the HLPOA web site a financial report that contains a Balance Statement, A breakdown of fund balances, A listing of all non-budgeted expenses, and the *Income & Expense Budget vs. Actual* report.

Comment: This establishes a set timeline for approval of the annual budget. Mr. Dobbs proposed 35 days prior to the end of the year but William Rice changed to 25 days because with the Thanksgiving holiday sometimes near the very end of November it would allow a board meeting to occur within the first 5 days of December to approve the budget if it was not able to be completed before Thanksgiving. Consideration could be given to changing the fiscal year as well. Given the Board is all volunteers with other personal obligations and responsibilities it can be difficult at times to get the long budget meeting completed around the end of November.

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