

2nd Gunbarrel Green Neighborhood Meeting

13-July-2020

Hosted by Marc Rochkind
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gunbarrel.net/hoa

Agenda

- **Part One**
 - Board Member's Duty
 - Financial Statement Irregularities
 - Transparency of Board and Committees
 - Concentration of Power
 - Governing Documents
 - Board Elections
- **Part Two** – Questions, Comments, and Discussion

*Meeting will not be recorded by Zoom.
Slides will be posted at gunbarrel.net/hoa.*

My Duty As a Board Member

(Am I allowed to send emails and host meetings?)

Opinion on HOA Fiduciary Issues by HOA Attorney Melissa Garcia, Altitude Community Law

“Board members must act:

- (i) in good faith,
- (ii) with the care of an ordinarily prudent person in a like position under similar circumstances, and
- (iii) in a manner ***the director believes*** to be in the best interests of the Association.

“So the duty is owed to the Association, not to the other directors, and not to the individual homeowners.”

*I work for you, not for the Board.
I would support the Board more if it were
functional and acted in a lawful manner.*

Financial Statement Irregularities

no 2019 reports

Financial Documents

- [2020 Jan-May Fiscal Report](#)
- [2018 End-of-Year Treasurer Report](#)
- [2018 Treasurer Report \(June\)](#)
- [2018 Treasurer Report \(May\)](#)
- [2017 Treasurer Report](#)
- [2016 Treasurer Report](#)
- [2015 Treasurer Report](#)
- [2014 Treasurer Report](#)
- [2013 April](#)
- [2012 December](#)
- [2011 August](#)
- [2005 September – 2010 October](#)

[2019 Budget](#)

Transfers treated as income/expense in other statements also.

2019 BUDGET AND ACTUALS AS OF DECEMBER 31, 2019

	2019 BUDGET	2019 ACTUAL	VARIANCE
BEGINNING BALANCE 1/1/2019	\$ 2,447.00	\$ 2,447.00	
PROJECTED INCOME			
Projected Income from Dues *	\$ 28,200.00	\$ 28,200.00	
Projected Income from Past Dues	\$ 800.00	\$ 1,100.00	\$ 300.00
OTHER INCOME			
Garage Sale	\$ 350.00	\$ 312.00	\$ (38.00)
Directory Ads	\$ 150.00	\$ 440.00	\$ 290.00
Overpaid Dues	\$ 200.00	\$ 200.00	
Transferred from Operating Savings	\$ 15,032.00	\$ 10,000.00	\$ (5,032.00)
TOTAL PROJECTED 2019 INCOME	\$ 47,179.00	\$ 42,699.00	\$ 4,480.00
PROJECTED 2019 EXPENSES			
Annual Meeting	\$ 450.00	\$ 688.00	\$ (238.00)
Bank Service Charge	\$ 24.00	\$ 24.00	
Board \ Committee Meetings	\$ 1,500.00	\$ 169.00	\$ 1,331.00
Directory Printing & Postage	\$ 850.00	\$ 875.00	\$ (25.00)
Domain Names		\$ 96.00	\$ (96.00)
Dues Return	\$ 200.00	\$ 300.00	\$ (100.00)
Fees	\$ 80.00	\$ 35.00	\$ 45.00
Garage Sale	\$ 400.00	\$ 206.00	\$ 194.00
Gov. Docs - Legal Fees **	\$ 17,000.00	\$ 10,759.00	\$ 6,241.00
Gov. Docs - Printing & Postage	\$ 2,200.00	\$ 1,753.00	\$ 447.00
Gov. Doc & Special Meetings	\$ 2,000.00	\$ 1,783.00	\$ 664.00
Groundskeeping	\$ 5,800.00	\$ 4,653.00	\$ 1,147.00
Holiday Decorations	\$ 300.00	\$ -	
Holiday Lights	\$ 950.00	\$ 800.00	\$ 150.00
Insurance	\$ 3,250.00	\$ 3,241.00	\$ 9.00
Legal Fees - Non Gov. Docs ***	\$ 3,000.00	\$ 1,222.00	\$ 1,778.00
Miscellaneous	\$ 300.00	\$ -	
Office Supplies	\$ 400.00	\$ 740.00	\$ (340.00)
PayLease	\$ 150.00	\$ 95.00	\$ 55.00
Postal	\$ 1,600.00	\$ 1,002.00	\$ 598.00
Printing	\$ 2,000.00	\$ 2,111.00	\$ (111.00)
Repair & Maintenance	\$ 750.00	\$ 143.00	\$ 607.00
Social Committee	\$ 2,500.00	\$ 3,002.00	\$ (502.00)
Storage Unit		\$ 330.00	\$ (330.00)
Water	\$ 925.00	\$ 1,030.00	\$ (105.00)
Website	\$ 100.00	\$ 334.00	\$ (234.00)
Xcel Energy	\$ 450.00	\$ 414.00	\$ 36.00
PROJECTED 2019 EXPENSES	\$ 47,179.00	\$ 35,805.00	\$ 11,374.00
Checkbook Balance Dec. 31, 2019	\$ 6,693.00		
Operating Savings Balance Dec. 31, 2019	\$ 43,854.00		
Total Assets as of Dec. 31, 2019	\$ 50,547.00		

* 2019 Dues - 5 residents owe 2019 dues. 20 residents owe past dues.

** \$10,759 for legal fees document prep, meetings, responses to questions from residents.

*** Non gov. doc. Legal fees (legal fees in 2017 were \$10,893 2018 were \$6,078 (all covenant related))

Transferred from Operating Savings	\$ 15,032.00	\$ 10,000.00	\$ (5,032.00)
TOTAL PROJECTED 2019 INCOME	\$ 47,179.00	\$ 42,699.00	\$ 4,480.00
PROJECTED 2019 EXPENSES	\$ 47,179.00	\$ 35,805.00	\$ 11,374.00

\$3K loss, not \$7K gain

not on website

Gov. Docs - Legal Fees **
10,759.00

not income

\$10K too high

Transparency of Board and Committees

not public for 5 months

Colorado Revised Nonprofit Act

7-128-202. Action without meeting.

(9) All writings made pursuant to this section shall be filed with the minutes of the meetings of the board of directors.

What happened between July and October? We don't know.

August 2019 Newsletter

no detail – what were the Actions?

Below is a list of Board actions taken without a meeting (note: there needs to be a unanimous agreement in the decisions made):

1. April 2019 agreed to obtain legal advice for covenant issue.
2. April 2019 pay final Fruition (internet company) invoice for \$333.75.
3. April 2019 agreed to obtain legal advice for covenant issue.
4. April 2019 agreed to send covenant violation issue to a resident.
5. May 2019 agreed to a work session with Melissa Garcia.
6. May 2019 agreed on additional landscaping in the mowing of high grass at the entries and sidewalk area between Old Post Road and upper Old Mill Road.
7. June 2019 agreed to obtain legal advice for covenant issue.
8. June 2019 agreed to Ice Cream Social.
9. July 2019 agreed to a work session with Melissa Garcia.
10. July 2019 agreed to neighborhood email blast regarding the Ice Cream Social.
11. July 2019 agreed to neighborhood email blast regarding bears in the neighborhood.

11 Actions Without Meeting missing from minutes on website

[13-Jan-2020 Board Meeting Minutes \(draft\)](#)
[15-Jan-2020 Board Meeting Agenda](#)
[2019 Annual Meeting \(draft\)](#)
[2019-03-27 – Board Meeting Minutes \(draft\)](#)
[2018 Annual Meeting \(draft\)](#)

I have insisted that all Actions Without Meeting be posted on the website. No support from other Board members.

Covenant Committee

7-128-203. (3) (a) (I) (A) All regular and special meetings of the residential nonprofit corporation's board of directors or executive committee, or any committee of the board that is authorized to take final action on the board's behalf, must be open to attendance by all residential members or their representatives.

From course given by
Altitude Law



Though Shall Not . . .

Go Into Executive Session To Discuss Violations

- Reasons for executive session
- Not a privacy issue
- How do you handle?



Board Meetings Are Rare

2018-03-20

2018-06-19

2018-09-18

2019-03-27

2020-01-15

2020-02-17

2020-07-13 — *today; nothing scheduled*

6 months

10 months

6 months (other than 6 min. in Feb.)

Board has not held a non-meeting discussion since I've been on the Board



HOA's law firm

VIRTUAL MEETINGS: GENERAL CONSIDERATIONS FOR COMMUNITY ASSOCIATIONS

Meetings of the Board of Directors

Likewise, the Colorado Revised Nonprofit Corporation Act also provides authority for directors to participate in Board meetings through the use of “any means of communication by which all directors participating may hear each other during the meeting.” Directors participating in a meeting by such means are deemed to be legally present “in person” at the meeting. Just like the provision pertaining to homeowner meetings, this provision also provides that this general authority is subject to any more specific limitations or restrictions contained in the organization’s bylaws.

How Is HOA Business Being Handled?

- Almost no Board meetings
- No Board discussions
- No community discussions (other than those hosted by me)
- Only one Action Without Meeting, concerning posting on the website

Answer: We don't know.

Concentration of Power

One Board member controls:

- money
- financial statements
- email list
- postal mailings
- Newsletter
- Directory
- Covenant Committee
- Nominating Committee
- elections
- communication with the attorney, the County, and all others

Also, has assumed (non-existent) position of “Acting President”

2019 Governing Docs Draft

- Board can raise dues without homeowner vote
- Board can enter property and make changes
- Board can levy fines without due process
- No home businesses allowed
- Restrictions on parking extended from lot to street

For more complete list of horrors, see analysis at

gunbarrel.net/hoa

Governing Documents Project

- Draft circulated last Fall
- Written comments sent to Board
- Meeting held on 11-Nov-2019
- Comments have been disregarded (nearly all negative)
- Jan. motion to meet with Committee; not done
- No current activity (as far as I know)
- Newsletter erroneously said that changes were required by law
- Out-of-control project needs to be terminated

How to Fix Everything That's Wrong

- **Elect two new Directors in October**

- Commitments:

Legal – follow Bylaws and Colorado Law

Fair – all homeowners treated alike

Open – public meetings; minutes on website

Restrained – minimal interference in homeowner affairs

Conserving – keep our neighborhood as it's been for 50+ years

First Board Meeting

- Elect a new President and Vice-President.
- Disband the Governing Documents Committee and terminate the documents-revision project.
- Commit to posting all Board actions on the website and making Architecture and Covenant Committee meetings open.
- Re-distribute responsibilities, so that a single person doesn't control so many HOA functions.
- Ask Altitude Law to investigate ways to separate the Briar Ridge/Old Post/Tanglewood section.

Nothing changes unless
we can elect the right
two Directors.