

LAKE HOLIDAY COUNTRY CLUB

Minutes of Board of Directors Regular Meeting

Date/Time/Place: April 27, 2021; 6:30 pm, Club House Great Room

Directors in Attendance: Richard Traczyk, James Coates, Pat Majewski, Ed Noble, Darrell Melcher, Betka Hardgrave, Elizabeth Hair, Jon Reedy, Robert Adams

Directors on the phone: none.

Directors absent: Jarret Tomalesky.

Invited Attendance: Mike Goodwin, General Manager

Call to Order: The meeting was called to order at 6:30 with a quorum present.

Note: John Stover supported the use of Microsoft TEAM conferencing software. Meeting was available online to Lake Holiday members.

TOPIC:	DISCUSSION:
Agenda Approval	Motion: (Traczyk) to approve agenda as-is. Action: Vote 9-0 (unanimous). Motion carried.
Open Forum	<p>There were about 50 people attending Open Forum, most of them to support and advocate for a restaurant at Lake Holiday.</p> <p>Anthony Morelli responded to feedback from the Association attorney Doug McCarthy on Lake Holiday Board of Directors' term limits. Anthony was the involved in preparing the Policies, Rules and Procedures (PRP) Number 16 for the "term limits" based on the interpretation of the Virginia Bylaws. Anthony's position is that the counsel does not provide correct "reading of the bylaws." Note: see attachment at the end of the minutes. Anthony was reading from this email at the Board Meeting. More on this topic (see Tab 12).</p> <p>Restaurant related discussion. There has been a lot of traffic on Next Door and Facebook about interest in a potential restaurant at Lake Holiday. Several attendees presented their cases in support of the restaurant. Lisa Cox, Stephanie Ryan, Jennifer Files, Joe Ashcroft, Michelle Sunderland, Shawn Winfrey, James Cox, Josh Wheely expressed different ideas on the restaurant and the survey.</p> <ul style="list-style-type: none">• Facebook survey response is incredibly positive for the restaurant.• 2017 survey only asked 5 questions which did not represent the restaurant venue being pursued by the current advocate

	<p>group.</p> <ul style="list-style-type: none"> • Request to fund survey needs to be supported by board. • Lakefront restaurant will have positive impact on the housing market and provide a gathering point for LHCC members and guests. • Subcommittee will be formed as part of MPC to start exploring and developing “restaurant related survey questions/processes.” Several restaurant advocates/speakers at tonight’s meeting are interested to join. • Restaurant could be a good source for “part time jobs for LH teenagers”. • Board has responsibility to respond to community needs. • Restaurant could be sustained by the growing Lake Holiday population (950+ homes, approximately 350 Membership Lot Owners and guests). Using a minimum of 2 persons per household, some % of Membership Lot Owners plus Guests, a reasonable initial estimate of potential restaurant patrons would be in the range of 2500-3000. <p>Note: Restaurant survey is topic of Tab 7. Richard Traczyk responded to attendees in support of the restaurant survey:</p> <ul style="list-style-type: none"> • Create a sub-committee as part of MPC. Assign Board Contact (Robert Adams), SC Chair, Secretary, etc. • Subcommittee will be formed as part of the MPC, will report to the MPC Chair as they develop Survey Questions, will follow all LHCC Committee Protocols (Member in Good Standing, Attendance/Quorum requirements, etc.). • MPC approved Survey Questions will then be submitted to the Board for final approval before community distribution. • Microsoft Teams will be used as the Survey Platform with assistance provided by John Stover (Technical Committee as needed). <p>J.T. Hesse and Jared Mounts spoke in support of the “Tributary/Watershed Survey” to ensure that all available Best Management Practices (BMP’s) for control of sediment and phosphorus entering/impacting Lake Holiday have been adequately vetted. This topic is covered in Tab 10.</p>
<p>Tab 1 – Approval of March 23, 2021 BOD meeting minutes</p>	<p>Motion: (Hardgrave) To approve minutes. Action: 9-0 (unanimous). Motion carried.</p>
<p>Tab 2 – President’s Report</p>	<p>VA governor Northam has provided new restriction rules on indoor and outside gathering (100 people outside event and 50 people for an inside event).</p>

	<p>New amenities: Dog park is opened; the fitness center is fully functional. Food trucks are back on weekends. Munchie Ducks food venue to open on Memorial weekend.</p> <p>How to respond to requests to remove trees (fallen or down dead trees) in the common areas of the Lake holiday community. Option is to ask the LH attorney to draft a “hold harmless” document. Pat and Mike to create “TAB for the next board meeting” on how to proceed.</p> <p>Clubhouse bathrooms will be reopened on Memorial weekend. Bathrooms will be locked down at night. Portable restrooms will be in place for the summer season. Need to finalize daily cleaning process.</p> <p>Speed cameras are ready for installation.</p> <p>Beach II proposals: two proposals were received. Master Planning committee to review proposals. May BOD meetings will have TAB.</p> <p>Patrolling of the Lake Holiday has started. Need full accounting reports from the Sheriff’s department on violations.</p> <p>Phase II walking trails: work to start next week. \$17,800 is already allocated for the project.</p> <p>Gazebo for the dog and the Country Club parks. Richard recommends buying two Costco gazebos for \$1,700 each instead of moving the bus stop pavilion (which is an expensive move). Funds for this purchase would come from the last year budget.</p>
<p>Tab 3 – General Manager’s Report</p>	<p>Walking trails: trail is approximately ½ mile in length and will create a walking circuit from CCP to the large roadside pond on West Masters and back. Trail will be available in May.</p> <p>Old Pumphouse removal: collapsed irrigation pumphouse located on the former golf course property is being removed. Yearly operating budget is used to cover expenses. Concrete pad will be left behind; could be used for picnic table etc.</p> <p>Redland Road Fencing: yearly budget includes \$13K for the planned extension of the fencing and for the rehabilitation of the existing fencing. McGrane Fence Co. manager will update proposal. It is expected that the cost of the material will be increased. With the price increase, office has sought additional pricing from competitors. There is very little interest for this job. Estimates we have received are more than \$5K above the approved budget.</p>

	<ul style="list-style-type: none"> • Is the board going to approve additional budget? Total of \$20K will be required to complete the work as planned. Additional \$7K to already allocated \$13K is needed. • Scale back of the project is an option. • Board direction: use the replacement reserve to cover cost up to \$20K.
Tab 4 – Treasurer’s Report	LH financial health continues in the positive direction. Golf course loan is repaid: \$32K available for other use.
Tab 5 – Committee Reports	Nothing to report.
Tab 6 - Adding Electronic Voting as an Option for LHCC Elections	<p>The nomination committee would like to pursue adding electronic voting as an option method of Absentee voting in LHCC elections. Paper ballot option would continue to be available to Lake Holiday members. Benefits include convenience, efficiency, cost saving, election integrity, timely communication, environment, and member participation. If approved by the Board, updates to PRP 16 would be made.</p> <p>Recommendation: board to approve exploring voting and electronic communications as options for the 2021 election.</p> <p>Note: election changes would need to be approved in the general election.</p> <p>Motion (Hardgrave): Move that the LHCC Board approve exploring electronic voting and electronic communications as options for future elections.</p> <p>Action: 9-0 (unanimous). Motion carried.</p>
Tab 7 – On-Site Restaurant survey	<p>Issue: an increasing number of LHCC members are requesting that the Board fund a “2021 Restaurant Survey” as follow-up to the one conducted during 2017. The 2017 Board sponsored Community Survey did not provide sufficient detail for a meaningful response. Also reference to “becoming a member of a Restaurant Club by paying monthly fees” skewed responses/interest.</p> <p>Note: see Open Forum discussions on the “restaurant interest”.</p> <p>Board discussion:</p> <ul style="list-style-type: none"> • Why to have a separate survey? Next survey on many topics will be conducted in 2022. Response: this is a special request from the community. • Munchie Ducks café owner has a 3-year contract. We should get experience with the restaurant idea from this enterprise. • Survey questions need to come from Master Planning and B&G. • In stead of spending money on the survey software, we need

	<p>to explore use of the Microsoft platform.</p> <ul style="list-style-type: none"> Any sub-committee focused on the “restaurant exploration” needs to follow established rules and procedures. <p>Recommendation:</p> <ul style="list-style-type: none"> Form a sub-committee with members from the Master Planning and Building&Grounds committees plus any interested Board and community members. Objective is to create survey questions to be validated by the Board. Use Microsoft platform to run the survey. Robert Adams and Jon Reedy will lead the sub-committee. Sub-committee will be established under the Master Planning Committee. <p>Motion: Form a sub-committee under MP. Action: 9-0 (unanimous). Motion carried.</p> <p>Motion: Use Microsoft software platform for the survey. Action: 9-0 (unanimous). Motion carried.</p>
<p>Tab 8 – Priority of New/Revised Capital Improvement Projects for 2022</p>	<p>Issue: Master Planning Committee has presented the proposed CIP projects and monetary revisions to existing projects. Board needs to review and approve/disapprove any of them. Changes to project ranking can be made as well.</p> <p>Board Decisions:</p> <ul style="list-style-type: none"> Change name of the CIP “Fitness Equip” to “Outdoor Fitness Equip”. All approved. Remove CIPs “Fish Stocking” and “Fish Survey”. These projects are part of “Replacement Reserve.” This change was approved by all except James Coates. Remove “Road lines” CIP. This change was approved by all except Darrell Melcher. Move “Marina Slips” as number 1 Project in the “Summary Decision” table. This change was approved by all except James Coates, Ed Noble and Richard Traczyk. <p>Motion: Review and approve CIP projects and their ranking.</p> <p>Action. Approve changes based on Board Decisions. See updates above (Board Decisions). Motions were carried (see above).</p>
<p>Tab 9 – Proposal for Fish Habitat</p>	<p>Issue: The Lake Committee is requesting Board to approve placement of “larger types of Fish Habitat/Cover” at Lake Holiday in the 20+/-foot depth ranges.</p> <p>Recommendation: LC recommends the construction and placement</p>

	<p>of habitat in areas off the fishing/observation pier behind the clubhouse. The two types of habitat proposed are 4-foot artificial brush/log structures and sunken Christmas trees.</p> <p>Motion: Approve LC recommendation for the habitat. Fund the work from the replacement reserves.</p> <p>Action. Action: 9-0 (unanimous). Motion carried.</p>
<p>Tab 10 – Proposal for Potential Tributary/Watershed based Best Management Practices (BMP’s) for Sediment/Phosphorus Control</p>	<p>Issue: LC request for Board Approval to fund a “Stream/Watershed Assessment (Issacs’s Yielders and Miller Run} during May 2021”.</p> <p>Motion: Approve “Princeton Hydro 2021 Lake Holiday Preliminary Review of Existing Stream Stability and Watershed Condition Proposal” at a cost of \$4,422. Replacement Reserve to fund this activity.</p> <p>Action. Action: 9-0 (unanimous). Motion carried.</p>
<p>Tab 11 – Capital Improvement Project Fund Adjustments</p>	<p>Issue: Adjust category amounts in the CIP to zero balance “Category 8010.13 Beach II Site Plan”. The site plan for Beach II had a cost overrun of \$10,917.50. Proposal would zero balance this account by reallocating funds from other categories.</p> <p>Motion: adjust the CIP categories to zero balance of Category 8010.13 Beach II Site Plan.</p> <p>Action. Action: 9-0 (unanimous). Motion carried.</p>
<p>Tab 12 – Need for Bylaw Clarification re: Director Term Limits</p>	<p>Issue: Nomination committee sought clarification to the Bylaws Article IV due to various people interpretation of the current bylaws. LHCC attorney’s legal opinion was requested to clarify the current Bylaws.</p> <p>Conclusion: the rules of the 2021 election have now been clarified by our legal counsel, and we must abide by the current Bylaws. We need to amend our Bylaws to remove ambiguity and confliction statements.</p> <p>Motion: Board to approve Nomination committee recommendations for the changes to Bylaws.</p> <p>Action. Action: 9-0 (unanimous). Motion carried.</p>
<p>Adjournment / Announcements</p>	<p>The next Regular Board Meeting will be May 25, 2021 at 6:30 p.m. in the Clubhouse Great Room.</p> <p>Meeting completed around 9:30 pm.</p>

Respectfully Submitted,
Betka Hardgrave, Board Secretary

Attachment: Email exchange between Anthony Morelli and Ricard Traczyk on "term limits".

Another note from Anthony to Board on May 7.

I ASKED ANTHONY TO COMMENT ON THE ATTORNEY OPENION. ANTHONY WROTE THE REVISIONS TO THE BYLAWS SO I FELT IT APPROPERATE TO CONTACT HIM.

He's wrong, but I guess we'll find out if ever there comes a legal challenge.

It was clearly defined and well contemplated that on the segment of a term fulfilled *solely by appointment of the BOD* would not count. I believe it to be unreasonable that he is choosing to insert language in that paragraph that doesn't exist and would not be interpreted by a Court or jury in that manner.

I can tell you that I will at least make that argument before the board, the Nominating Committee, and/or community because that is absolutely NOT what was intended nor does the text indicate is the case.

The language is clear and unambiguous: "The term of any interim Director as appointed by a majority of affirmative vote of the Board of Directors shall not be considered a term of office for the purpose of term limits." That's a singular exclusion and it is well-defined.

His opinion specifically (and erroneously, in my opinion) excludes the "as appointed by a majority of affirmative vote of the Board of Directors" text.

His opinion specifically includes and concludes (erroneously, in my opinion), "...fulfill the term of a prior Director who has later been ratified in that position by a vote of the membership..." and therefore you can be ELECTED for terms of up to 8 years. Sorry, Richard, that is EXPRESSLY prohibited by the Bylaws.

I'm not a lawyer. I listen to more cases in a year than most attorneys do. That does not make me an expert. What I can tell you without question is that the courts interpret almost without fail the "plain language of the document." McCarthy and Akers in their opinion take substantial liberties with the text (namely including language that is not part of the document) and are far afield of the plain language of the Bylaws.

And as someone who championed the recommendations for the update to the Bylaws, I can assure you I have a very vivid memory of the whats and whys of how that came to exist, what was contemplated, and what was not.

It was simply to not penalize a person who was appointed by a board to fill out a fraction of a year have that count towards their service terms should they opt to return and go to election.

So yes, if in by election by the MEMBERSHIP, it IS possible to have to sit out for one year after having served four or five if one of those ELECTED BY THE MEMBERSHIP terms is abbreviated.

At the end of the day, the bylaws are clear, you may not serve more than six years consecutively as elected by the membership. So unless you want to move to upend the 4/4/3 election cycle, which is not expressly prohibited, but I don't believe is in the best interests of the community, the McCarthy/Akers opinion is putting

this Board and the members who wish to follow its interpretation into a potential trouble spot.

I would urge you to heed my interpretation. At a minimum, to consider my words above long and intensively.

Respectfully,
Anthony

Email to Board members and nomination committee on May 7, 2021
Open Forum Support material (board meeting on April 27, 2021)

As the person who took the lead on managing the proposed changes to the Bylaws in 2018, I can offer the following clarification on the language as detailed in the current approved LHCC Bylaws.

McCarthy and Akers opinion is incorrect for several reasons, the first of which is the most important. And that is, as an officer on this board of directors and the person who initiated the review of the bylaws, which hadn't been done at the time in approximately 7 years or so, I can tell you exactly what was discussed, what was contemplated, and what was the intention behind all of the changes. That on its own invalidates McCarthy and Akers opinion because I was in charge of the initiative in reviewing the bylaws, I did all of the writing which came about via months of board discussions, reviews, and revisions. And finally, all of the rationale was explained to Mr. McCarthy upon his final review of what was drafted for consideration by the community, and was given his final approval. This was the culmination of months of writing, revision, and review and approval ultimately by the legal team.

All anybody had to do was ask me. Why Mr. McCarthy's opinion is different now than it was then is anybody's guess.

Now, at least a few of you were on the board at that time, namely Dr. Majewski and Mr. Traczyk. Now, it's been approximately 4 years, so I certainly can understand if their recollections are not as sharp as mine are on these matters. However, it is rather sharp to myself and others who served on the board at that time.

Moving onto the legal reasons, and this is an issue I have with Mr. McCarthy on more than a few occasions. He either or both inserts language into the policy/procedure that doesn't exist and omits language from the policy/procedure that does exist.

It was clearly defined and well contemplated that on the segment of a term fulfilled *solely by appointment of the BOD* would not count. I believe it to be unreasonable that he is choosing to insert language in that paragraph that doesn't exist and would not be interpreted by a Court or jury in that manner.

I make that argument before the board, the Nominating Committee, and/or community because that is absolutely NOT what was intended nor does the text indicate that is the case.

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At the end of the day, the bylaws are clear, you may not serve more than six years consecutively as elected by the membership. So unless you want to move to upend the 4/4/3 election cycle, which is not expressly prohibited, but I don't believe is in the best interests of the community, the McCarthy/Akers opinion is putting this Board and the members who wish to follow its interpretation into a potential trouble spot.

The ONLY exception was for the APPOINTED director due to an untimely vacancy. The rationale behind that decision was that it was detrimental to the Association to "penalize" someone who stepped up to fill a vacancy for a partial year who may have designs on serving further. We contemplated that it would be detrimental to the Association for the short-term (people wouldn't step up to fill it when they could wait and expect to have the opportunity to serve 6 years).

While we contemplated similar reasons for those ELECTED to abbreviated terms, considering that we could allow someone to be elected to another abbreviated term on the back-end for the same reasons, there were not enough benefits to the Association (or individual) that were able to overcome essentially destroying the consistency of the 3/3/4 election cycle. There was no way for the Board to overcome that consequence for doing so. Therefore, any additional exception to allow for 6 years consecutively were disallowed under this specific circumstance. Any candidate running for office in a year where an abbreviated term is in play must give consideration to the fact that they may only be able to serve less than 6 years and then have to sit out one year.

We gave these measures a great deal of thought and analysis at the time because we obviously wanted to give ready, willing, and able candidates the opportunity to serve the Association for the maximum allowable time they would offer without unduly burdening or upending the current 3/3/4 election cycle.

KEY POINTS:

1 - As the lead in this review and updating of the bylaws, I have express direct knowledge of the process which was undertaken. Both myself and the Association are in possession of all the supporting documentation in terms of meeting minutes, the bylaws portions of the Annual Meeting Packets from both 2017 and 2018... and can consult essentially anyone who served on the boards during those years. Mr. McCarthy's legal opinion cannot overcome that outside of a glaring error in the text that his office would have approved back in 2017.

2 - McCarthy Akers reviewed the language proposed throughout the process, likely multiple times, before approving it on the grounds and discussions and contemplations by the BOD.

3 - I firmly believe that no action needs to be taken to revise the language of the bylaws as it is plain, clear, and unambiguous today as it was when first approved by McCarthy and Akers. If the BOD and/or nominating committee feels differently, I would urge you to consult with McCarthy Akers (despite my reservations over his

changing opinions rather significantly in such a short time period) as a "scrivener's error correction" and change the words "term of service of any interim director appointed..." to "time of service of any interim director appointed..." -- such a change would not require a ballot measure to be voted on by the membership and should be noted in the revision log as a scrivener's error correction to avoid confusion. HOWEVER, I still maintain that is not necessary as there is neither a legal nor general dictionary difference between the words "term of service" and "time of service."

Respectfully,
Anthony Morelli