

## **Minutes for November 7<sup>th</sup>, 2011 Nisqually Estates Homeowner's Association [HOA] Board Meeting**

HOA Board Members Present: Rob Mendel, Rebekah Cade-Jordan, Alison Brackett, Denise Smith. Board Member Erik Dilg was not present. Other Homeowners Present: None.

Meeting opened 5:56 pm, 10425 Brighton Street SE.

1. A motion was made and seconded to confirm the 2011-12 Board positions. **Approved 4-0.**
2. A motion was made and seconded to formally approve the October 10<sup>th</sup>, 2011 Board Minutes and the October 15<sup>th</sup>, 2011 Annual Meeting Minutes. **Approved 4-0.**

### **3. Treasure's Report**

- a) Financial Status: Savings \$4,658.82 Checking \$3,229.36
- b) 2011 Dues Status: 115 out of 120 homeowners have paid for dues for 2011.
- c) Lien Status: Total number of liens - 15, Number of Properties with Liens - 7.
- d) Insurance Status: Alison to call again and request D&O policy book
- e) Mailing of 2012 Dues Statements: Alison to draft billing statement to be finalized at December 5<sup>th</sup>, 2011 meeting. Billing statement to include consent statement for eCorrespondence approved by attorney. Billing statements should be mailed to homeowners by December 15<sup>th</sup>, 2011.

### **4. Architectural Control Committee Report**

- a) New Plans: No new plans submitted
- b) Observations: 19 homes with observations pertaining to CC&Rs. Down significantly.
- c) Violations: 3 violation letters to be sent out.
- d) Introduction of Proposed ACC Guidelines: A motion was made and seconded to post the proposed ACC Guidelines to the HOA website for a minimum of 60 days for review and comment by homeowners. **Approved 3-1.** The Board will vote on the guidelines at the February 2012 Board meeting.

### **5. Old Business**

- a) Responsibilities of New Board Members: Position descriptions will be e-mailed to board members by Monday, November 14<sup>th</sup>, 2011 and will be posted in the private area of HOA website.

- b) Communication Response time and Approach: There are four ways to contact HOA Board Members – e-mail, website contact form, mail a letter to HOA Post Office Box, or attend a board meeting. Board will respond to each contact according to urgency of matter. Simple or routine questions may be handled without group discussion. All replies should be sent to all Board members.
- c) Neighborhood Watch: Still looking for homeowner to volunteer.
- d) Financial Management Program: Rebekah to send financial program info to Alison.
- e) Approach to Welcoming New Homeowners/Residents: A motion was made and seconded to adopt the official Welcoming Program proposed by Rob. The program is to include a personal visit by a Board member providing new homeowners/residents with welcome letter (found on website private area) and obtaining of homeowners/resident contact information. **Approved 4-0.**

6. **New Business**

- a) Presentation of Report on Alleged 2003 Amendments: A motion was made and seconded to incorporate the report with these minutes and that the Board concludes there is **NOT** sufficient evidence of the alleged amendments passing with a proper member vote at the annual meeting of homeowners in November 2003. **Approved 4-0.**
- b) Sale of Playground Equipment: A motion to sell playground equipment was made and seconded. **Approved 4-0.** Rebecca will post ad on Craigslist and other websites to sell current playground equipment. Starting price to be \$500 or best offer with buyer to haul away. If no offers come in, price of equipment will go down until we find a buyer.
- c) 2011-12 Renewal of HOA Registration with WA Secretary of State. \$10 paid by Rob. Reimbursement vote. A motion was made and seconded to reimburse Rob for the \$10 paid to the WA Secretary of State for the renewal. **Approved 4-0.**
- d) Newsletter Publication Timeline: A motion was made a seconded to cancel printed newsletters and instead rely on website updates. **Approved 4-0.**

7. Next Board Meeting to be held on Monday, December 5<sup>th</sup>, 2011, 6:00-7:00 pm at 10425 Brighton St SE.

Meeting closed at 7:13 pm.

**Minutes approved by proper vote of the HOA Board as indicated by the signatures below.**

Denise Smith

Robert Akhmed

# Report on Alleged 2003 Amendments

## Nisqually Estates Homeowner's Association [HOA]

Submitted by Rob Mendel to the Nisqually Estates HOA Board on  
November 7<sup>th</sup>, 2011 for acceptance and incorporation into Meeting Minutes

**Purpose:** The purpose of this report is to make a determination based on the best available evidence as to whether Bylaws amendments passed with a proper member vote at the annual meeting of homeowners in November of 2003.

**Background:** In July of 2011, a newly seated Board discovered the physical and electronic records of the HOA to be in disarray and incomplete. The records consisted of a two-drawer filing cabinet, two boxes of unfiled and unopened correspondence and several disorganized loose-leaf binders. The website contained links to documents that were corrupted and disorganized. A homeowner challenged actions of the newly seated Board based on alleged 2003 amendments. The Board specifically discovered after its transition that the original minutes and all supporting documentation from the 2003 annual meetings were missing. There were no detailed or approved meeting minutes showing a record of the required number of homeowners for either a meeting quorum or a sufficient number of "yes" votes to amend Bylaws. Thus, there is no record that alleged 2003 amendments were duly passed at a legitimate annual meeting of the HOA. The Board sought to find evidence of these amendments by re-looking through all the files and requesting previous Board members to provide information or documents pertaining to the 2003 annual meeting. The Board also obtained a legal opinion on the proper way to determine the validity of any alleged amendments. This report summarizes the extensive efforts of the Board to look at the evidence of whether or not alleged amendments passed by a proper member vote (two-thirds of the membership) at the 2003 annual meeting.

**Investigation:** Board members searched the physical records of the HOA as well as conducted a forensic review of the old website to determine if there were any records at all pertaining to the 2003 annual meeting. We only discovered a newsletter, a copy of unsigned December 2003 Board minutes, and what appeared to be a draft or unofficial version of the 2003 annual meeting minutes. The newsletter referenced the alleged amendments but didn't indicate a vote count or how the amendments came to be. The unsigned December 2003 Board minutes

also did not indicate a vote count of how many homeowners voted in favor of the amendments, rather they only indicated that 42 homeowners were present (members and proxies combined). The draft or unofficial version of the 2003 annual meeting minutes also did not indicate an actual vote count. The minutes failed to show the actual language of the proposed amendments, what homeowners attended the meeting, any proxies that were given, a sign-in roster or ballots from the meeting. They did, however, indicate that six amendments were passed separately by only a “**majority**” vote as opposed to the required two-thirds vote of the homeowners. Article XV of the HOA Bylaws states that amendments must be passed by a two-thirds vote of the membership. Even if one interprets this to mean a two-thirds vote of the membership present at a meeting as opposed to two-thirds of the entire membership, these minutes themselves would indicate that the amendments were **not** properly passed.

The Board checked with the Washington Secretary of State, the Thurston County Clerk and Auditors offices to see if any Bylaws amendments were filed to the existing records of the Nisqually Estates Homeowner’s Association. There were not any such filings.

The Board also contacted two past presidents of the HOA (one who was asserting that the amendments were valid) and asked them to provide either original documents or verifiable copies of documents showing that the amendments were passed by a proper vote of the membership. Neither person provided anything of consequence. In fact, one past president failed to provide anything at all despite saying that she had information and having over two months to provide it. The other past president did provide some material but nothing that showed that the amendments were passed by two-thirds of the membership at the annual meeting. Much of what she provided the Board already had knowledge of and the rest was not relevant to the question of whether or not amendments were properly passed in the first place.

**Findings:**

1. There are no original documents in the official records of the HOA pertaining to the 2003 Annual Membership Meeting.
2. No documents have been provided to the HOA showing that amendments were properly passed at the 2003 Annual Membership Meeting.
3. No Bylaw amendments are filed with the Washington Secretary of State or any other government office, to the best of the Board’s knowledge.
4. The old HOA website did not contain any material showing that amendments were properly passed. In fact, the unofficial minutes for the November 2003 meeting indicate that amendments only achieved a **majority** of votes as opposed to the required two-thirds.

**Conclusion:** This report of investigation concludes based on the best available evidence that amendments to Bylaws were not passed with a proper member vote at the 2003 annual membership meeting. Unless conclusive evidence comes to light in the future that amendments were properly voted on and passed at the 2003 annual meeting, the HOA should continue to operate based on the original Bylaws.

**Recommendations:** Recommend that the HOA Board formally accept this report and incorporate it as a part of the November 7<sup>th</sup>, 2011 HOA Board meeting minutes. Also, recommend that the Board conduct an official vote, as recommended by legal counsel, to make a determination upon the best available evidence as to whether or not Bylaws amendments passed with a proper member vote at the annual meeting of homeowners in November 2003.

Submitted by: Robert A. Mendel

Date: 11-7-11

Rob Mendel

Approved by: 4-0

Vote of the HOA Board

Rob Mendel, President

Rebekah Cade-Jordan, Vice President

Alison Brackett, Treasurer

Denise Smith, Secretary