

**Governing Documents Committee
Minutes for February 1, 2020
Pool Pavilion
9:00 a.m.**

1. Call Meeting to Order.

Meeting was called to order at 9:00 a.m. by Chair John Cantley.

Present were members Connie Baldin, John Cantley (Chair), Shirin Murphy, Patrice Stimpson (Vice Chair), Alicia Rogers, Rick Throckmorton, Grace Wollemann (Secretary), board liaison Bill Lewis II, guests Directors Cam Acosta, Phyllis Throckmorton, General Manager Karin Shulman and Marianne Norris.

2. Minutes reviewed and approved by email

January 4, 2020 minutes were approved via email.

ACTION: Connie Baldin and Patrice Stimpson will look at rules on vicious dogs and charcoal barbeques.

3. Documents to be reviewed

Bylaws 2.16, 2.10, 3.01, 3.03, 4.01, 5.06, 5.09, 5.10 E, 6.10 A, 8.02, 8.06, 10.02, 11.03, 11.06, 12.02, 12.03 C. 1 (Election and Member in Good Standing Bylaws)

Discussion: These bylaws were discussed in the January meeting. They have been amended to reflect the new election rules and a new definition of member in good standing. Discussion ensued regarding if the bylaws need to go to legal. Time requirements were also discussed.

The governing documents committee **agreed** by consensus to the following:

2.16 "Member in good standing" means a member of the Association who has fully paid all assessments due on each and every Lot owned in whole or part by such person whose rights have not been suspended and and who does not stand in violation of the governing documents of the Association under bylaw 10.02 D.

3.03 Use of Association property. Subject to reasonable rules and regulations adopted by the Association including but not limited to, controlling the number of members and guests who may use Association facilities at one time, the following persons and entities shall have the exclusive right to use Association property: (a) members in good standing; (b) member authorized guests; (c) the Association and its invitees, and (d) members and residents authorized under Civil Code Section 4515. Only members in good standing may authorize guests. A guest may not be an owner of a lot in Pine Mountain Club who is either not a member in good standing or whose Association privileges are then under suspension for any reason. The authorizing member shall have full responsibility for any authorized guest while the guest is using Association Property. The right of any person, including but not limited to, members and guests,

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invited associates, renters, tenants and lessees' boarders, and lodgers of members to use and enjoy Association property shall at all times be subject to the rules, limitations, and restrictions set forth in these Bylaws, in the CC&Rs, and in the Association's published Rules and Regulations. All members and guests, invited associates, renters, tenants, lessees, boarders, and lodgers of members are required to: (a) have a current membership card or a valid guest pass displayed on their person or in their possession when using an Association facility and (b) pay the membership or guest fee as applicable. The membership card or guest pass must be shown upon request to any PMCPOA employee or designee prior to using Association property or facilities of the Association or obtaining service. Notwithstanding the definitions of Section 10.02D herein, if a member is not in Good Standing because of failure to timely pay their assessments, but they have entered into, and remain current with an approved repayment plan, forbearance or redemption contract, **and** such member shall be permitted to use the Association facilities and participate in Association events. ~~Such member's right to vote remains suspended until such time as all assessments, interest and related fees are current and full rights of membership are restored.~~

4.01 Voting rights. Members ~~in good standing~~ shall have the right to vote on issues properly brought before the members. There shall be one vote for each lot. The owner of a multi-residential lot shall have one vote for each whole assessment paid by that owner. There shall be one vote for a commercial lot as such shall be defined by law or contract from time to time. Subject to the provisions of Corporations Code Section 7612, or its replacement section upon its amendment or replacement, if a membership stands of record in the names of two or more persons, or if two or more persons have the same fiduciary relationship respecting the same membership, if only one such person votes, such act binds all owners. If more than one such person votes, the act of the majority so voting binds all owners. No single vote shall be split in fractional votes.

5.06 Bylaw amendments by members. Members with proposed changes to bylaws may submit initial language to the governing documents committee which will provide advice on the proposed language. The committee may submit the proposed change to the board. Nothing in this bylaw prevents the member from proceeding with a petition signed by not less than ~~seventy-five (75)~~ 10 % of the members ~~in good standing~~. Bylaw amendments must be submitted to the office no later than the first Wednesday of February to be considered for inclusion on the June ballot. Once any proposed bylaw amendment is received by the board of directors, the board shall cause the proposed changes to be considered by the Association's general counsel for general counsel's opinion as to the legality and/or conflict with other existing governing documents. In the event that the general counsel determines that the proposed amendment would be illegal the board of directors will not place the proposed bylaw amendments on a ballot. If a proposed amendment is and/or stands in conflict with the existing governing documents, the board of directors must decide whether or not to place the proposed bylaw amendment on the ballot during the April March open board meeting. If a proposed amendment is not placed on the ballot an explanation will be provided to the maker of the proposed bylaw.

5.09 Voting at meetings of members. A vote of a majority of the memberships

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entitled to vote represented at a meeting by ballots shall prevail with respect to the matters to be voted upon at the meeting.

Any election regarding assessments legally requiring a vote, election or removal of membership of the Board of Directors, amendments to the CC&Rs and bylaws, or the granting of exclusive use of common area property pursuant to Civil Code Section 1363.03, or its replacement section upon its amendment or replacement, shall be held by secret ballot as described herein.

All members **in good standing** may vote by ballot. All such documents shall be treated as secret and confidential, and shall be submitted, handled, counted, and retained as prescribed in Civil Code Sections 1363.03(d) through (k), or their replacement sections upon amendment or replacement. A member may vote for a write-in candidate.

To the extent authorized by California Code, electronic delivery and voting of ballots is permitted. Ballots submitted electronically to the Association are valid only if they are authenticated as provided in California code.

A ballot box may be, but is not required to be, accessible in the lobby of the PMCPOA clubhouse during the voting period.

If a member attends the meeting of members, the ballot may be delivered personally to the Inspector of Elections at any time after the meeting is called to order up until the time the voting is closed as announced by the board. No ballot shall be opened or reviewed prior to the time all votes are counted by the Inspector of Elections in public at a properly noticed open meeting of the board of directors or Annual Members' meeting. Any candidate or other member or employee of the Association may witness the counting and tabulation of the votes.

5.10 E. Members **in Good Standing** may vote by the official ballot deposited with the Inspector of Elections prior to the time the Chair of the Board announces the closure of the ballot box. The three (3) candidates receiving the highest number of votes shall be deemed elected. The candidate(s) receiving the highest number of votes in an election for a one or two-year term of office shall be deemed elected to fill such vacancy in the Board of Directors as provided for under bylaw 6.10B.

6.03 Qualifications for Directors. Each director and officer ~~must be at least 21 years of age, shall be a member in good standing of the Association and shall not be currently employed by the Association and shall not be on the board of directors for the Mil Potrero Mutual Water Company and/or Pine Mountain Club Commercial Property Owners Association. A candidate who is in litigation with the board of directors, Association staff or the Association is not eligible to be a director. Co-owners cannot serve on the board at the same time~~ must be a member of the Association, be current in the payment of regular and special assessments or (1) have paid the assessments under protest; or (2) entered into a payment plan pursuant to Civil Code Section 5665. The member must read and sign all documents related to the nominating process and must be qualified under the PMCPOA election rules. ~~In-~~

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~~order for a nominated candidate's name to be placed on the ballot, he or she must read and sign all documents related to the nomination process.~~

6.10 Director vacancies.

- A. A vacancy or vacancies in the Board of Directors shall be deemed to exist on the occurrence of any of the following: (a) any disqualifying provision in the PMCPOA election rules; (b) the death, resignation, removal or termination of membership. ~~of the following: (a) the death, resignation, removal (reference by law 6.08) or termination of membership of a director, (b) in the event that a director becomes delinquent in the payment of an assessment and thereby becomes a member not in good standing, (c) accepts employment with the Association, (d) becomes a member of the board of directors for the Mil Potrero Mutual Water Company and/or Pine Mountain Club Commercial Property Owners Association, (e) is in litigation or administrative proceedings against the board of directors, the Association staff or Association, (f) becomes a co-owner with a current member of the board.~~

8.02 Qualifications for officers. Officers shall be members **in good standing** of the Association and shall be elected as described in bylaw 5.12.

8.06 Duties of the Chair. The chair shall exercise general supervision of the affairs and activities of the Association *and* shall preside at all meetings of the members and of the Board at which he or she is present.

The chair shall be responsible for preparation of Board meeting agendas, including supporting data and information for each director. The chair is responsible for the retention of each Board meeting agenda package which shall be made available at the principal offices of the Association for review by members **in good standing upon written request.**

10.02

- D. Any member who fails to pay his/her assessment during the period between July 1st and September 15th, or who stands in violation of the governing documents by non-payment of a monetary penalty when due, shall, for the purposes of **voting** utilizing the facilities of the Association, and participating in activities sponsored by the Association, be considered a member not in good standing. Such member shall not be reinstated to good standing in the Association until he/she has paid all assessments in full plus interest thereon, or entered into a forbearance agreement and/or paid any monetary penalties in full by the deadline set by the board of directors. Delinquent assessments shall be charged interest at 9% per annum for any unpaid balance after July 30th. All members other than those described in this paragraph are members in good standing.

12.02 Enforcement generally. The governing documents may be enforced by the levying of reasonable **monetary** penalties including **finer monetary penalties**, judicial

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enforcement, suspension of Association property privileges with the exceptions of the right of use of any roads, the right to attend board meetings, and the right to use the transfer site, or by any other enforcement mechanism as may be provided for by law. Members who, after due process, are deemed in violation of the governing documents and fail to pay any monetary penalty by the deadline set by the board of directors, thereafter continue to stand in violation of the governing documents and may have their Association property privileges suspended as provided in Bylaw 12.03 C 1. Failure to enforce any provision of the governing documents shall not be deemed a waiver of the right to enforce those provisions thereafter. Any penalties and/or suspension shall be imposed only after the member has been afforded the notice and hearing rights more particularly described in this Article.

12.03 Rights and Remedies of the Association

C. Limitations of disciplinary rights.

1. Loss of rights. To the fullest extent permitted by law, and subject to appropriate notice including an offer of a ~~and~~ hearing, the Association shall have the authority to suspend an owner's rights as a member to use Association facilities or participate in activities sponsored by the Association (declared a member not in good standing) for the failure to pay assessments or for a violation of the governing documents by the owner or by any tenant, guest or invitee of the owner. Suspension of an owner's rights shall include, but not be limited to, ~~imposition of monetary penalties, suspension of voting rights and use of Association recreational and other non-essential facilities and~~ participating in activities sponsored by the Association by the owner and any tenant, guest, or invitee of the owner. In addition, any tenant, guest or invitee of the owner who likewise fails to comply with the governing documents shall similarly be subject to imposition of monetary penalties and suspension of use of said Association facilities.

BPP A-15 (Election Procedures)

Discussion: This represents revisions to the election procedures required by the new amendments to the Civil Code. The chair will provide background. The governing documents committee **agreed** by consensus to the update to Business Policy A-15 (Election Procedures).

ACTION: Grace Wollemann to send Candidate Filing Form to Director Lewis.

Rule Article 11 (Equestrian Center)

Discussion: Are the new rules contained in the revised boarding agreement consistent with those in the written Association Rules? General counsel has completed its review of the boarding agreement. The chair reported no discrepancies.

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Proposed new Bylaws 3.07 and 3.08 by Director Skelly

Discussion: Bill Lewis will provide background and recommendations. The committee discussed the Articles of Incorporation and board's fiduciary duties. The governing documents committee **agreed not to** recommend proposed bylaws 3.07 and 3.08 to the board.

Bylaw 5.04 and 5.06

Discussion: The chair will provide background and recommendations. No changes were recommended to bylaws 5.04 and 5.06 was already discussed above.

Rule Article 7.11 (Rules Regarding Wildlife)

Discussion: At the request of the general manager to be reviewed and/or revised to better reflect original intent. Rick Throckmorton provided recommendations. Committee discussed potential hazards to wildlife and storage of harmful chemicals.

ACTION: John Cantley will continue working on Article 7.11 for clarity.

Due to time constraints the following items were deferred until next month.

Rule Article 2.02 (Due Process)

BPP H-16 (Media and Press Release)

Rule Article 3.09 (Solicitation on Association Property)

Business Policies and Procedures H-5 (Legal Contact)

Business Policies and Procedures H-5B (Legal Contact II)

Business Policies and Procedures H-10 (Alternative Dispute Resolution)

Business Policies and Procedures D-5-A (Purchasing -Office)

Business Policies and Procedures D-11 (Member Addresses)

4. Business Policies and Procedures (BPP) to be Reviewed:

H-5	Legal Contact	Shirin Murphy
H-5B	Legal Contact II	Shirin Murphy
H-10	Alternative Dispute Resolution	Board Chairman Bill Lewis
H-11	Board Interaction with Employees	Connie Baldin
D4	Quarterly Financial Review	Mary Hansen and chair
D-5A	Purchasing-Office	Beth Blackmon and chair
D-10	Records Retention	Grace Wollemann

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D-11	Member Addresses	Shirin Murphy
D-13	Purchase Orders	Beth Blackmon and chair
D-14	Check Cashing	Beth Blackmon and chair

5. Adjournment.

MOTION by Connie Baldin, **SECONDED** by Patrice Stimpson to adjourn at 11:30 a.m. **MOTION** carried unanimously.

The next governing documents committee meeting will be held at **9:00 a.m. on March 7, 2020 in the Pool Pavilion.**

Grace L. Wollemann
Secretary, Governing Documents Committee