

**SUGAR SPRINGS PROPERTY OWNERS ASSOCIATION
(SSPOA)
SPECIAL BOARD OF DIRECTORS BUSINESS MEETING
MAY 22, 2020**

During the Coronavirus/COVID19 global pandemic, the Governor of the State of Michigan issued an Executive Order to limit attendees to ten (10) persons at any gathering. The Sugar Springs Board of Directors felt it necessary to address specific issues at a meeting held under those circumstances. The meeting was audio recorded and as such transcribed in its entirety.

PRESENT: President Jim Issitt, Vice President, Tom Hug, Directors: Patti Berg, Catherine Bowman (via teleconference), Dale Dunham, Dennis Hagey, John Hawkins, Craig Taunt; Architectural and Environmental Control Committee Chairman, Scott Jones and Recording Secretary, Judith Sullivan.

Meeting was called to order by President, Jim Issitt, at 10.00 a.m. in the Lancelot Room of the Activity Center.

Motion made to approve

Minutes from SSPOA Board of Directors Work Session held on May 15, 2020 were approved as presented.

M/Dunham,S/Berg

Discussion: None

Motion unanimously approved

AGENDA ITEM V-I

Presented by Scott Jones

Architectural and Environmental Control Committee Presentation to the SSPOABOD Regarding Short Term Rentals:

INITIAL TIMELINE: Received a letter in October of 2019 from a member expressing concern that Short Term Rentals were in fact a business and business is not allowed in Sugar Springs. In their opinion they were contrary to the Rules and Regulations of Sugar Springs. Included in their presentation were findings from a current lawsuit/pertinent case (Edgar vs. Peasley) and a listing of current properties for rent in Sugar Springs and several articles from the Northern Michigan Property Law Blog concerning short term rentals.

Just a note to indicate the standard procedures of the A&E Committee, we receive complaints, questions and notices from members constantly. As far as what we do, we have a process that we have – we verify the facts, we review the Rules and Regulations, Covenants and ByLaws that pertain to whatever the complaint is, then make a decision. We may make notification, send out letters, notices of violations ... whatever the case may be. That is standard procedure for the Committee. We received a concern about short term rentals, we reviewed the submitted material, read the Blogs that were submitted (9/21/17), Michigan Court of Appeals Rules in Favor of HOA, Northern Michigan Property Law Blog (1/24/18), Michigan Community Association Law Blog (12/4/17). We read the language that was submitted with court cases that pertained to short term rentals and made the determination and that's part of our decision. We also looked at the rules, Covenants and ByLaws, attended two Board work sessions and held many informal discussions.

Covenants and ByLaws

Article IV, Section 1, Land Use: “Unless otherwise provided by this declaration of designated on a plat, all lots in the development shall be used for residential purposes only.”

Article IV. Section 2, Types of Buildings: “Construction on all properties shall be limited to a single family residence unless otherwise designated ...”

In other designated areas, that would be certain areas such as the Pro Shop, the Hearth restaurant, the Buildings and Grounds area and it also allows for condominiums; but otherwise, single family residences only. We also looked at the Rules for some sort of guidance on durations. Our Covenants allow for durations in condominium properties and that's six months or greater. So basically we looked there for guidance in reviewing short term versus long term.

After reviewing the memo, all the supporting documents, we came to a preliminary decision. We met with the General Manager, the Board President, the Sugar Springs Attorney and reviewed our position. We looked for support or no support for our decision. I should add that Sugar Springs has a long history of enforcing “No Business” allowed. We have on several occasion had to prohibit members from running businesses from their homes. It's not new. After doing all this, we came to two basic conclusions,

Our Analysis of Regulations is that “Short term rentals do not meet the test of “residential use only” because they are a business and short term rentals are not “residential” use because no part is a resident. The people who rent are not “residents” and the people who own the property are not there so they are not “residents”.

A&E FINDING – Short term rentals are not allowed under existing Covenants and ByLaws.

A letter was sent to the SSPOABOD indicating our findings stating that short term rentals are not allowed under existing Covenants and ByLaws of Sugar Springs. Subsequent to that letter, we met twice to discuss this issue and that’s how we arrived here today.

Jim Issitt: Anyone have any questions for Scott?

Dale Dunham: Did the lawyer at the time when you decided to ask for support or no support say anything?

Scott Jones: Yes. And I shall paraphrase by saying he said there are two sides of this issue. He much preferred to be on the supportive side of no short term rentals as the opposing side.

Dale Dunham: There are people who want to do it and other people who do not want to do it. Those that want to support the Covenants and those that don’t.

Scott Jones: That’s correct.

John Hawkins: Did you meet with the attorney other than when we had the work session?

Scott Jones: Yes. We met again.

John Hawkins: At one of the work sessions, I heard your paraphrase, what I heard was that it was a close call, it was slightly weighted toward if it were to possibly be in court, it would be in favor of the ban.

Patti Berg: That’s not right. What I heard him say was that “If I had to defend a side, I would defend the side of upholding the ByLaws.”

John Hawkins: But he also said it was a close call, and that both sides would be defensible. The attorney said that they were not exactly looking to go into court in giving an opinion that well,

maybe, and he based it on that court case that we have all been looking at. But there was a significant difference in that POA in that court case and our POA documents and the difference was that in the POA documents that he was referring to; there was a prohibition on business activity with no money making activity could happen from the residential locations in their association. We do not have that prohibition. Nothing in our documents that says that there is no business activity allowed out of your home. All it says is that in a residence, and it has to be residential. In fact the attorney and I had a discussion that day with an example of that it happens all the time. They do many things ... they sell things on EBay, for instance I occasionally give music lessons. He said that giving music lessons does not cause your house to not be a residence. And so, even on that point, our own attorney even said the business activity is not going to cause your home to not be a residence. If a person came in here and rented a house and turned it into a Taco Stand that's not a residence anymore. What you were talking about was that when a person rents a house to be their residence, there is a period of time when they are a resident. When a person rents a house for six months or six days, it's still residential use. So I find that is a flaw in the logic here. And the other thing that you mentioned about business activity – I know you are right – that has been done there, but that was a faulty philosophy not in line with what our documents say. People do and have and should be able to do in the privacy of their homes as long as it's legal and as long as they are living in the house itself and it's their residence, what they do is not part of the scope of what should be our responsibility. So I think that's where we are in trouble here. If we go through with this, I feel that we are going to “brand” this Board of Directors as a bunch of scoundrels for affecting how people use their homes rather than doing in such a way that they cannot respond to what we are doing here. I don't know when the appropriate time to make the motion is. I think it really is in our best interest to table this until we can do this and everything is above board. I was just outside, walking in, and a member handed me a handful of petitions that held informational information that should be here. Mr. Issitt wouldn't allow him to give them to him and he ordered me not to take them.

Patti Berg: I've got a handful of letters that say the opposite.

John Hawkins: I'm glad you do. What I'm saying is ...

Jim Issitt: Do you have any verification as to where those documents came from?

John Hawkins: All we have to do it look.

Jim Issitt: Once you've looked. you've accepted them, John.

John Hawkins: No ... All you have to do is ask him where he lives.

Jim Issitt: I know he lives here.

Patti Berg: He doesn't live here ... he lives in Royal Oak.

John Hawkins: You have to ask him if he is a property owner here.

Jim Issitt: He is a property owner here. The people that signed that petition that was blatantly put out on the internet ... are they residents of Sugar Springs?

John Hawkins: There was no reason not to accept those. Once you did that, he filmed it, once again showing that we are the scoundrels again. We are not responsive to the members and to do things without their knowledge and that is exactly what is happening here.

Jim Issitt: If it's without their knowledge, how come we have dozens and dozens and dozens of people who know what it going on here.

John Hawkins: They don't have the knowledge of the details. That's what I am talking about. They need to hear the discussions.

Dale Dunham: Regarding those papers seen as we were coming in. I am not seeing where that is a problem.

Jim Issitt: I found it to be a problem.

Dale Dunham: We can look at them. If they are not members of this community, we can disregard them. We can look at them if they are members. They are trying to tell us they don't agree. It shouldn't make a difference whether or not what decision we decide by the Covenants and ByLaws. I don't see a reason why we couldn't have taken them, look through them, and if they are not members, get rid of them. If they are members, it's on record that we have taken the concerns of these people. That's my feeling.

Patti Berg: And my feeling that it's my responsibility to uphold the ByLaws and Covenants.

Dale Dunham: It's just people ...

Patti Berg: I get what you are saying. And then there's the other side. I have a stack of letters from numerous people that asked me to give them to Jim and he didn't accept those either.

Dale Dunham: However we do it, it's just taking information in. It wouldn't hurt to get an idea of who these people are. It wouldn't hurt to get an idea of who the people are that are for it. We don't have the opportunity to have a large, open meeting, unfortunately. So I don't know if that guy is still out there.

Dennis Hagey: The problem with going to consider even a compromise, what I believe is we need to follow the Covenants and ByLaws. I took an oath to do that and I am going to abide by that oath. When I look at that material, there is only one conclusion that I can come to – it's a business. Anybody who is paying taxes – it's a business. Do you want to see people living in their home – other people living in their home – and they are doing it all the time. Now we have put together a Resolution...(Interrupt)

Request from Catherine Bowman to have the floor

Catherine Bowman: My concern with the VRBOs and Vacation Rentals is that the people that own these properties are basically running a motel at their home. This is not a rental unit where you create a residency. This is basically a short term motel usage of our property in Sugar Springs. These people that rent have no vested interest in our properties therefore are not going to follow our rules and they are not going to abide by the membership so there is where the problem lies. This is nothing more than a motel – on our lakes, on our golf course – and if property destruction is happening it's because they are there for a weekend and gone. This is not taking care of our membership or following our Covenants as a residential area.

John Hawkins: So that you mentioned once again, there is nothing in our Covenants that says business activity cannot happen, as long as the use is residential. And what Catherine just said about the homes, the people who rent these homes take large deposits and are motivated to not lose those deposits by incurring damage to the property that they are in. And the people who rent their homes to those people are motivated to keep them up because people won't rent them if they are not nice. The idea that these are all motels – the majority of people I have talked to are just people who use these as short term rentals as a way to meet expenses. Some of them can't afford that house without that income. They bought the house because that has been the past practice as to allow that over the many years of Sugar Springs.

Catherine Bowman: But John – You have to understand it is not our obligation to protect their income and their ability to afford the house. If they can't afford the house, that's on them. Not us.

John Hawkins: It's not also our power to take that away from them. The idea that it just doesn't matter if we change the rules way late in the game while people have invested hundreds of thousands of dollars or maybe some millions of dollars here. It's just too bad that they lose an investment because people want to change a rule because ... or because we are changing an interpretation of a rule. It's a big change and it's a change that will significantly alter the lifestyle here. When we take the idea that you can no longer have this extra income for your home here, that also means that that property has lost that potential to raise that money and that is a loss of value. A lot fewer people will be less interested in our properties here when they can't do that. Regardless, a great majority of the people here are not doing it as absentee owners all the time.

Patti Berg: It's good that one gets that deposit and it's good for the house. But we just had somebody tearing up the golf course a week ago. They were renters.

John Hawkins: It's not because of this. That is not the problem.

Patti Berg: It is. The people ...were vacation home renters.

John Hawkins:The solution for this criminal activity is the police. The people to contact are the police. Don't take property rights away from members here. The solution is we have a township ordinance. I have been the subject of the township ordinance a couple of 4th of Julys ago. They said my stereo was too loud and the next business day the township supervisor was at my door. So remedies are there, not changing peoples lifestyles here.

Jim Issitt: I think we agree there are varied prospective on this. Resume Dennis ...

Dennis Hagey: My concern is that I believe members expect us to follow the Covenants and ByLaws. I believe that it's our duty to do it and anyone that wants to pass things off as a residence. When you don't live in the house you own and you just give it to anybody to be there and you are getting money for it, John ... I can't go along with where you are at.

John Hawkins: What we are doing right now is not breaking the Covenants and ByLaws. Residential use is the only one and there is nothing in there about receiving money or business activity. Having a business is not mentioned anywhere. It's just something you guys are doing.

Jim Issitt: Are you saying that you are more adept at reading the Rules and Regulations even in the position that we are in than our attorney? Is that what you are saying?

John Hawkins: You are ignoring the letter that the other attorney sent you that totally dismisses what our attorney said.

Jim Issitt: No I am not. Our attorney dismissed exactly what he said after reviewing it.

Dale Dunham: One of the things that Jim said was that no matter what decision we make, there is always going to be two sides to it. Either way we go, it's going to be a situation out of our control. According to what the attorney we have said we need to lay out on the Covenant part, to say that we don't approve of short term rentals. We have to make the best decision we can and I agree with Dennis to follow the Covenants and follow what our lawyer feels is in the best interest of Sugar Springs. If it goes the other way, there is nothing we can do about it.

John Hawkins: The difference, Dale, is that if we do it that way and there is a court case because of something we do then once again we have become the bad guy.

Jim Issitt: Don't worry about being a bad guy.

John Hawkins: The perception of this Board of Directors has caused so many people to leave. In the other scenario we do have is to leave things the way they are because we have been doing it for so long, and we don't decide on this today, is that this homeowners committee sues us. At that point, it's that action that causes us to be in court from all these other homeowners.

Patti Berg: They are pointing to the ByLaws and they are making us look at it. That's exactly what happened.

John Hawkins: I am too. The ByLaws are being looked at.

Jim Issitt: Do we agree to disagree? Can I hear a motion on the item at hand?

Dennis Hagey: I'd like to read the Resolution and make a motion.

SHORT TERM RENTAL *RESOLUTION 2020*

At a meeting of the Board of Directors of the Sugar Springs Property Association, Gladwin County Michigan, held at the Activity Center on May 22, the following *Resolution* was presented for approval.

RESOLUTION:

Whereas, the Sugar springs Property Association A&E Committee has investigated the issue of whether Sugar Springs Rules and Regulations prohibits short-term rentals of properties in Sugar Springs.

Whereas, the Sugar Springs Property Association A&E Committee has recommended that short-term rentals are prohibited pursuant to the Sugar Springs Rules and Regulations. Specifically, “Covenants and Restrictions, Article IV” restricts all lots to be used for residential purposes. Further, Article VI Commercial Property, restricts commercial use of lots, except in specific designated places.

Whereas, The Board of Directors has reviewed the A&E Committee’s recommendation

Therefore, it is hereby *RESOLVED* that the Board of Directors shall adopt the following Rules regarding rentals of property located in Sugar Springs.

RULES FOR RENTAL OF PROPERTY IN SUGAR SPRINGS

1. Rental of property in Sugar Springs for six (6) months or longer may be permitted upon execution of an approved lease document.
 - a. The leased property must be used as a single-family residence only and the lessee must comply with all Sugar Springs Rules and Regulations as if they were actual owners of the property. The lease would not absolve the owner from any violations or misuse by the tenant.
 - b. The lease document must include certain language provided by the Sugar Springs General Manager.
 - c. The lease document must contain the names of all the intended residents of the property.
 - d. A signed copy of the lease must be submitted to the General Manager for approval.
 - e. The owner/lessor of the property cannot re-rent the property until the original rental term has expired, unless express, written permission is granted by the General Manager.
 - f. Any violation of these rules will result in a violation assessment of up to \$1,500 or three times the amount of rent the homeowner received, whichever is greater. The violation assessment may be applied to the homeowner’s Association Dues.
2. Rental property for a period of less than six (6) months is not allowed. This prohibition applies to both developed and vacant lots.

IT IS FURTHER *RESOLVED* THESE RULES SHALL GO INTO EFFECT January 1, 2021.

Dennis R. Hagey, SSPOA Corporate Secretary

Date

Motion made to Approve above stated Short Term Rental – *Resolution 2020*

M/Hagey,S/Berg

Discussion:

John Hawkins: I'd like to have this tabled until we can have an open meeting so people can have a chance to address the Board. I make that Motion.

Dennis Hagey: Mr. Chairman, the Motion to Table requires a second.

Jim Issitt: Is there a second? (No response)

Jim Issitt: Hearing none, Roll Call Vote please.

Roll Call Vote: P. Berg, Yes. Catherine Bowman, Yes. Dale Dunham, Yes. John Hawkins, No., Dennis Hagey, Yes, Tom Hug, Yes, Jim Issitt, Yes, Craig Taunt, Yes.

Motion passes – Seven (7) Ayes, One (1) Nay

Dennis Hagey: Just a comment for everybody. One of the things we did do as a compromise was to put the effective date January 2021 to allow people to possibly if they wanted to have a business plan or what they could do to help things work out. We will not harass them for the rest of the year.

AGENDA ITEM V-II

Approve the Lot Consolidation, Kings Realm Lot 153/154

Motion made to Approve the Lot Consolidation, Kings Realm Lot 153/154

M/Berg,S/Hug

Discussion: None

Roll Call Vote: P. Berg, Yes, C. Bowman, Yes, D. Dunham, Yes, J. Hawkins, Yes, D. Hagey, Yes, T. Hug, Yes, J. Issitt, Yes, Craig Taunt, Yes

Motion unanimously approved.

Dale Dunham: What is the plan for getting this out to the member?

Jim Issitt: This is a verbatim meeting, so everything that has been said in here, all the actions taken will be transcribed.

Dale Dunham: As far as the A&E Committee guidelines will all be in the minutes, is that correct?

John Hawkins: Will there be a mailing that explains this new regulation?

Response: No. It will be on the SS Website as well as on the SSPOA Constant Contact message on the Internet.

John Hawkins: We have 400 members who are not on the SSPOA Constant Contact as well as elderly members who do not have the Internet. I think it needs to be sent out.

Patti Berg: Most neighbors are always sharing POA information with those that do not have access to the Internet.

AGENDA ITEM V-III (requested by the Nominating Committee)

Approve the Slate of Candidates for the 2020 Election for Sugar Springs Board of Directors

The unanimously recommended Slate of Candidates is:

**Frank Best
Lorin Christensen
Dale Dunham
Laura Gentry
Sandra Kitchen
Jeff Weeman**

Motion made to Approve the Slate of Candidates for the 2020 Election for Sugar Springs Board of Directors. The unanimously recommended Slate of Candidates is:

Frank Best
Lorin Christensen
Dale Dunham
Laura Gentry
Sandra Kitchen
Jeff Weeman

M,Hawkins/S,Dunham

Discussion: Dennis Hagey: There was concern about having an AKA on the ballot. There is a State of Michigan ruling that says you must use the legal name on the slate/ballot/election as it appears on the property deed. You may not use “Also Known As” – it must be the legal name of the person. There was a request to use an AKA for this ballot, but we must follow the State guidelines. All elections must use legal names.

John Hawkins: This should not apply here. People know Lorin Christensen as Lola Woods so if there is not a law, we should be able to use Lola. Once again you are trying to take advantage of someone. She should be able to use the name that she uses all of the time.

Patti Berg: She put in multiple applications using both names.

John Hawkins: She did that to accommodate this issue. She did not know this was a rule. It makes no sense to not allow the membership to know who she is.

Patti Berg: They know who she is. She signs in at Board meetings as Lorin Christensen.

Catherine Bowman: She is running for an elected office. She must use her legal name. If she chooses to use her nickname on line or wherever that’s fine, but her legal name has to go into our governing documents.

Dennis Hagey: I was directed to do this as Corporate Secretary - have her use her legal name.

Roll Call Vote: P. Berg, Yes, C. Bowman, Yes, D. Dunham, Yes, J. Hawkins, Yes, D. Hagey, Yes, T. Hug, Yes, J. Issitt, Yes, C. Taunt, Yes.

Motion unanimously approved.

ADJOURNMENT:

With all Agenda Items completed and without objection, President Issitt adjourned the meeting at 10:55 a.m.

Respectfully submitted,

Judith Sullivan, Recording Secretary

Dennis Hagey, Corporate Secretary, Sugar Springs Property Owners Association

