

APERTURE HOMEOWNERS' ASSOCIATION, INC.
BOARD MEETING
JUNE 21, 2022
VIA ZOOM – 2:00 P.M.

Present: Bruce Mclean
Jim Stormont
Mark Hoesterey
Emily McGaughy
Rob Harper, Toad Property Management
Joe Robinson, Toad Property Management
Jacob With, Law of the Rockies
Marcus Lock, Law of the Rockies

Bruce Mclean asked whether homes in Aperture had been legally assigned physical addresses. Marcus Lock explained that the County had assigned all Aperture homes legal physical addresses as part of the final subdivision approval process, but his experience was that it often took some time for companies such as Amazon and Google to update their records to reflect these new addresses.

Joe Robinson called the meeting to order at 2:06 p.m. and welcomed Board members to the inaugural meeting of the Aperture Board. Joe confirmed that a quorum was present.

Joe said that the chief purpose of the meeting was for Association legal counsel Jacob With to provide a brief orientation to Board members.

Jacob explained that Board meetings were open to the membership, and it was important to notify owners and give them the opportunity to attend. Jacob explained that the Board did not have to meet specific requirements regarding the method or timing of notifying owners, but did need to provide sufficient notice such that owners realistically had the opportunity to attend meetings. An example of this could be scheduling a series of meeting dates and providing call-in information for those meetings at the beginning of the year.

Jacob said that while owners did not generally have a right to participate in the Board meetings, there was a Colorado law requiring that owners be allowed to speak on an agenda item before the Board took action on that item. In practice, this meant that once Board members had made a motion and a second regarding an item and had completed their discussion of the motion, they should give owners the opportunity to speak before taking the final vote.

Jacob explained that the law required an Annual Owners' Meeting to be held at a time that gave owners the opportunity to veto the Association's annual operating budget. Many HOAs preferred to hold the Annual Owners' Meeting in the summer to increase attendance, but this sometimes was not practical for the budget preparation schedule. It was possible to hold a separate owners' meeting to give owners the opportunity to veto the budget later in the year. Jacob added that he had never seen an HOA membership veto a budget.

Jacob said that Colorado had recently changed its laws governing HOAs, particularly with respect to collections and the enforcement process for fines. By passing HB 22-1137, the legislature had made it

more difficult to impose fines, had capped on fine amounts, and had added additional mandatory notice requirements and cure opportunities for owners in violation. This new law did not go into effect until fall, and Jacob asked the Board to keep in mind that the process for levying fines against owners would be both new and significantly more onerous for Toad to carry out than it had been previously.

Marcus added that he had written a letter to Toad explaining in depth the key implications of this legislation for Colorado HOAs. Joe confirmed that he would circulate this letter to the Aperture Board.

Marcus noted that there was one final outstanding issue between Aperture and the Town of Crested Butte. Marcus said that Paragraph 2 of the recorded Landscape Maintenance and Easement Agreement (the Agreement) between Aperture and the Town stated that the Town would grant the Association an easement. The Agreement also indicated that the Town would be responsible for perpetual maintenance of the river trail, and Aperture would be responsible for maintaining the adjacent fence and landscaping. Because neighboring HOA Augusta Park would also benefit from the fence and the landscaping, Augusta Park had agreed to be responsible for 20.7% of those maintenance costs, leaving Aperture responsible for 79.3% based on the respective number of lots in each subdivision. Marcus said that the Town had not yet formally granted the easement to Aperture, and the delay was likely due to the Town's recent decision to fire its legal counsel.

Marcus anticipated that there would be fairly heavy use of the river corridor by paddle boarders and rafters. Marcus said that the Slate River Working Group had done a good job of educating the community on the fact that misusing the river to the detriment of the private communities on the banks of the river would result in loss of the community's ability to use the river easement. Marcus said that state law gave Aperture and other private property owners on the river banks special protections against liability resulting from recreational use of the river easement, and noted that the Agreement required the Town to maintain liability insurance that covered the Aperture subdivision and the owners of all lots within the subdivision as additional insureds. Marcus noted that Toad and the Board should be sure to verify on an annual basis that the Town had, in fact, secured this insurance coverage for the Association and its members. Marcus said that he had already taken care of that in advance of this summer, and he would provide Joe with the insurance certificate.

Marcus emphasized that the river easement only allowed floating on the surface of the water, and did not allow anchoring, access to the Association's river park, or access to the rest of the subdivision. Marcus encouraged owners to protect the river park as a private amenity for the Association by reporting trespassing and developing a system for enforcement against trespassing. Jacob and Marcus agreed that installing 'Private Property' signage was a clear first step, and the Slate River Working Group had developed some signage for this purpose that should be free of charge to the Association. Joe said that he would investigate this further.

Jacob added that there were several policies in place required by CCIOA that would need to be amended after HB 22-1137 went into effect, and Law of the Rockies would provide the Board with updated policies to adopt. Jacob said that adopting a policy on construction that set out clear rules for dogs on worksites could be helpful in addressing some of the trespassing issues the Board had been observing over the summer.

Marcus and Jacob left the meeting.

Joe said that the Bylaws stipulated that a President, Vice President, Secretary, and Treasurer should be appointed.

After discussion, Jim Stormont made a motion to appoint the following slate of officers:

Bruce Mclean - President

Mark Hoesterey - Vice President

Jim Stormont - Treasurer

Emily McGaughy - Secretary

Emily seconded the motion, and it was unanimously approved.

Mark noted that he would need to recuse himself from the Architectural Control Committee.

Joe said that he had sent around a financial report prior to the meeting. Joe said that the Association was in good shape financially. Joe noted that the Association had exceeded the budget for Repairs and Maintenance in part due to the purchase of a \$2,200 bear proof trash can, which Joe believed should be a developer expense. Joe was in the process of working to have the Association reimbursed by the developer. Joe said that, in future, the Association would likely need to increase the Repairs and Maintenance budget, in part due to trash collection and annual staining of the pavilion furniture. Joe said that, while development and construction were ongoing in Aperture, a significant amount of labor hours would continue to be necessary for trash collection on the Aperture grounds.

Jim and Joe agreed to meet in person when Jim was next in town to review the budget. Jim asked to postpone any further discussion of next year's budget until he and Joe had had the opportunity to meet.

Joe explained that the tree wrapping had been done by Alpine Landscapes. It was agreed that the tree wrapping had been expensive and the Board could revisit at a future meeting whether they wanted to pay for tree wrapping again in the 22-23 winter.

Joe said that the entry side of the bridge did not currently have power, which was needed for irrigation. Toad had approached CB Electrical, who suggested that the easiest method for gaining electrical service on that side of the bridge would be to enter into a cost-sharing agreement with Augusta Park.

Joe said that Lacy Construction had done the road clearing for Aperture in the past winter, and the Board agreed that it would be helpful to offer homeowners the opportunity to use the same contractors for snow removal as the Association.

Joe said that Jim Jose had done an excellent job with design review for the Association. Joe said that local architect Kent Cowherd was also willing to participate on the Design Review Board, and could be helpful as a neutral third party reviewer for projects that Mark and Jim Jose's company was involved in. Joe said that Jim Jose would charge \$1000 per review, and as the total Design Review Fee was \$2,500, there were sufficient additional funds to pay Kent for his work on the review.

Joe said that Jim Jose had provided comments on the designs for Lot 6 and Lot 16. Board members agreed that the approval letters should include the language that the Board accepts the recommendation of the ARB to approve the designs, given that the review was conducted by a professional Architectural Review Board hired by the Board, rather than by Board members themselves.

Bruce made a motion to accept the ARB's recommendation to approve the plans for Lot 6 and Lot 16, subject to the owner's payment of the \$2500 design review fee. Mark seconded the motion, and it was unanimously approved.

Joe suggested a fall Annual Owners' Meeting. Jim concurred, and suggested that the Board also hold a social event in summer on July 29.

It was agreed to hold a fall Annual Owners' Meeting, potentially on the 26th or 27th of October. The date would be finalized over email.

Jim and Mark left the meeting.

There was some further discussion of how to prevent trespassing on Aperture property. Joe emphasized that Toad was available to help with enforcement and encouraged owners to report trespassing to Toad. Emily asked whether it would be possible to put together a homeowner directory with photos so that members of the community could recognize each other when they were out in the community. Joe said that he would consult with the Toad team, and added that it would be necessary to ask Aperture owners to opt in to participation in the directory, due to privacy laws.

Bruce made a motion to adjourn the meeting at 3:40 p.m. Emily seconded the motion, making approval unanimous.

Minutes prepared by Rob Harper, Toad Property Management