

Minutes
Colington Harbour Board of Directors Meeting
April 13, 2024

Meeting was called to order at 10:00am.

Present:

President – Doug Wirth

Chairman – Steve Ornstein

1st VP – Howard Snyder

Member at Large – Bill Meyer

Treasurer – David Creecy

Secretary – Leah Holmes

2nd VP – Randy Reale

Others Present:

Community Manager – Donna Price

Covenant Enforcement – Wendi Kmet

Maintenance – Pat Card

Bookkeeper – Ann Blomberg

Request to Secretary for Quorum:

Leah Holmes, Secretary, stated that a quorum had been reached. 241 required, and 409 received.

Approval of Agenda: Doug Wirth 1st, David Creecy 2nd. All in favor, motion passed.

Approval of Minutes: Doug Wirth 1st, David Creecy 2nd. All in favor, motion passed.

OFFICER REPORTS

President: Doug Wirth

- Upgraded security cameras were installed by Johns Brothers Security.
- Sandpiper Drive in the modular section was repaved by Fred Smith Co.
- Bulkhead was extended to protect septic system and live oak in soundfront park.
- New playground equipment was placed in soundfront park.
- Invasive vegetation in Colony Lake is being physically removed.

First VP: Howard Snyder – no report

2nd VP: Randy Reale – no report

Treasurer: David Creecy

- The Association stayed within the 2024 budget.
- Soundfront park bulkhead was a huge project.
- Proposed budget includes a 5% increase for office and maintenance staff.
- Will need to figure out a way to keep Colony Lake clean with the removal of the invasive grass by David Creecy and Charles Perry. Bids for the project are in the \$50K-60K range. Ms. Shafer helped coordinate this project.
- CPA will be providing an annual review.

Denise Collins stated the proposed budget is out of balance and must be corrected before it is submitted to the membership for a vote. She moved to make the following corrections:

Increase line item 430 from \$12,500 to \$14,000; increase line item 810 from \$0 to \$14,000; and reduce line item 800 (capital reserves) from \$95,000 to \$81,000. Sharon Douglass 2nd, motion passed on a voice vote. Budget for 2024-2025 was accepted with the above changes.

David Reed questioned how some line items were identified, including appreciation. The Board will meet with the accountant for advice on how to address these items.

Mike DeRosa requested an independent audit to review the books. Board responded that an audit was done every year for the books. Theresa Burgess, the Association's current accountant, is retiring. A new firm is coming in and will be doing a complete review.

Secretary: Leah Holmes

- Thanked the staff, noting that they do not get enough recognition for their hard work.
- Thanked David Creecy and Charles Perry for their work on Colony Lake, and David Creecy for his work on the soundside beach bulkhead.
- Thanked Steve Ornstein for his service and guidance on the Board for the past years.
- Thanked community for their support in the recent election and said she was looking forward to serving three more years.

Chairman: Steve Ornstein

- Thanked everyone for their support over the years. He promised to remain active and help where needed.

Member at Large: Bill Meyer

- Thanked Steve for serving on the Board and all the Board members for volunteering their time. He also thanked the community for their support in the recent election.

BOARD OF DIRECTORS ELECTION RESULTS

There were 10 candidates on the ballot that was mailed to property owners on March 6, 2024, prior to the annual meeting. Subsequently, property owners were advised that John Collins' name had been removed from the ballot. Total votes received for the three open positions were as follows:

Deborah Beddingfield	355
Leah Holmes	347
Bill Meyer	313
Daniel Hoggard	229
David Moore	224
Mike Weidinger	153
Carlson "BJ" Johnson	145
Steve Buick	129
Danielle Huff	124
John Collins	not counted

John Collins challenged the validity of the election based on the following: On March 12, 2024, the Board of Directors voted to disqualify John Collins since he only owned a partial lot and not a full lot, after the ballots had already been mailed and without advice of counsel. No provisions were made to replace the initial ballots, thus disenfranchising members of the community who had already cast their votes. Collins provided a letter from independent counsel which interpreted the CHA covenants in his favor. He opined that Leah Holmes and Bill Meyer should have recused themselves from the vote to remove him from the ballot since they were also running in the election. He stated that all ballots should be stored and secured until the matter is settled.

Motion: John Collins moved that the election be declared null and void, and that a new election be held. Sharon Douglass 2nd.

Discussion:

- Sharon Douglass read from Article 1 of the Colington Harbour Covenants, interpreting it in Collins' favor: "Section 1...(d)'original lot' shall mean and refer to any plot of land shown upon any original recorded subdivision map of the properties with the exception of common properties

as heretofore defined. (e) ‘owner’ shall mean and refer to the equitable owner whether one or more persons or entitled holding any original.”

- Members asked about the cost of redoing the vote.
- Howard Snyder disagreed with Denise Collins, saying the Board determined that an original lot means an “undivided” lot as compared to a “partial” lot.
- Doug Wirth stated that the Board had never received a legal opinion from their attorney, despite repeated requests.
- Daniel Hoggard challenged Collins’ ownership of the lot, claiming that he did not own the original buildable lot and was, therefore, disqualified. He also brought up the previous election where David Morgan had been disqualified after ballots were mailed because his name was not on the deed, only his wife’s. Hoggard felt it was unfair that a corrected ballot was not provided for that election.

A voice vote on the motion was inconclusive; an individual vote count was suggested. The motion was read again but an individual vote was not taken.

Further discussion:

- Christina Chamberlain stated we have two choices:
 1. Allow the current vote to stand; if a lawsuit comes later, we can deal with it then.
 2. Go through with the expense and time of another election.
- David Creecy proposed another option: John Collins can remove his motion and run for another term next year. Creecy said the Board could hire another attorney and have them give their opinion on how the Covenants should be interpreted.
- Sharon Douglass suggested that the board members who ran and voted to remove Collins from the ballot should resign – Leah Holmes and Bill Meyer.
- Howard Snyder emphasized that the Board had requested an opinion from their attorney four times, with no response. It is possible that the Board attorney may agree with Collins’ attorney, and he could run again next year.
- Karen DeJong asked why the election wasn’t run with Collins’ name remaining on the ballot. If the Board attorney should subsequently decide that he was ineligible, he could be removed at that time should he win.
- Howard Snyder said the community was equally divided on whether Collins was or was not eligible.

Motion: John Collins amended his first motion as follows: Suspend election results until the current Board contacts the current Association attorney. If the Association attorney decides Collins is eligible, we will revote. If Collins is deemed ineligible, John will dismiss the motion. Brenda Watt 2nd.

Discussion:

- If spouses are not on the deed, should they be able to run? This should be addressed by the attorney as well.
- Christina Chamberlain asked if we could amend the Covenants to clarify the definition of a “lot owner.”

A voice vote was held. Motion passed.

As a result, until this matter is resolved, the current Board of Directors consists of the following volunteers:

President:	Doug Wirth
Vice President:	Howard Snyder
2nd Vice President:	Randy Reale
Chairman:	Stephen Ornstein
Treasurer:	David Creecy
Secretary:	Leah Holmes
Member at Large:	Bill Meyer

NEW BUSINESS

- Denise Collins brought up the following points:
 - She corrected numbers that were falsely posted on Facebook regarding the cost of draining around 907 Harbour View Drive: the actual cost was \$1589.33, not the \$15000 claimed by Daniel Hoggard and Bill Meyer.
 - The Colington Harbour Yacht and Racquet Club (CHRYC) upgraded to an electronic lock system in 2022, and it remains unchanged.
 - The dredging project was audited by an independent auditor, Catherine-Mary Carraway; the project broke even, and no money was missing or embezzled.
 - She reported that Maggie Bryson did an independent audit of the CHRYC and concluded that the information shared was above board.
 - She took issue with Daniel Hoggard's accusation that John Collins was on the board for 1 ½ years while not a property owner. Rather, after selling his house in November 2021, she said he remained on the Board according to NC Statute 55A, and he was approved by the Board to continue serving while Hoggard was serving on the Board.
 - She objected to the way Secretary Leah Holmes was fulfilling her role as regards the minutes, saying that Holmes' minutes were incomplete and inaccurate.
- Denise Collins then presented a petition to remove Howard Snyder from the Board of Directors.
- A property owner expressed serious concerns about the way the guard gate handles security. Someone came through the gate in a cab, saying he was visiting this property owner. He told the cab driver that he was planning to harm the property owner. The cab driver called the police, and the person was arrested. The property owner shared her story with the guard gate employee and the police. She feels strongly that guard security needs to be beefed up. Guard gate employees are managed by community manager, Donna Price.
- Sue Tyner recommended we find a new attorney who specializes in HOA law.
- Regina Macklin stated that an attorney was hired three years ago to review the Covenants and the Bylaws. She wanted to know what happened to this review. John Collins, who was a Board member at that time, said the State of NC was implementing the changes in HOA legislation according to Statutes 55A and 47. These changes have been shared with the office so they can be incorporated in the Bylaws.

Meeting adjourned at 11:50. Motion by Steve Ornstein, Leah Holmes 2nd. All in favor, motion passed.

Minutes submitted by Jessica Loose, current Board secretary, based on an audio recording of the annual meeting.