

Approved Special Telephonic Board of Trustees Meeting Minutes 9:00 AM January 28, 2017

The meeting was called to order by President Scott Holte at 9:06AM. In attendance by phone were President Scott Holte, Vice President Karen Conner, Treasurer Mike Immel, Trustees Kevin Smith, Udo Gerz, Scott Wilson and Island Manager Sandra Bettencourt. Darla Younce was not present.

President Scott Holte stated he would entertain a motion to adjourn to Executive Session. Kevin Smith so moved and Mike Immel seconded.

The meeting was adjourned at 9:07

Approved Special Telephonic Board of Trustees Meeting Minutes 10:00 AM January 28, 2017

The meeting was called to order by President Scott Holte at 10:02AM. In attendance by phone were President Scott Holte, Vice President Karen Conner, Treasurer Mike Immel, Trustees Kevin Smith, Udo Gerz, Scott Wilson and Island Manager Sandra Bettencourt. Darla Younce was not present.

President Scott Holte asked for a motion to elect Scott Wilson as Secretary. Mike Immel so moved and Kevin Smith seconded. President Scot Holte called for a vote. Motion passed unanimously.

President Scott Holte announced that the Board had solicited a legal opinion from Counsel regarding interpretation of certain By-Laws regarding Membership Privileges and User Fees. Counsel responded with excerpts from the By-Laws, specifically Article II, section 4 clarifying Membership Privileges, User Privileges and User Fees which apply to Lots with more than one owner as distinguished from entities such as Corporations, Trusts, LLC's, Partnerships, etc., which pay User Fees only by contract with the Association, approved by the Board.

As a result the Board directed the Island Manager to collect "User Fees" from additional "family" owners, up to 2 additional families; and to investigate how many non-family (LLCs, corporations, trusts, etc.) multiple users we have; and to propose contracts for "User Fees" for those entities.

President Scott Holte announced that the Board received from Council a proposed Resolution which would indemnify current and past Board Members from liability. Kevin Smith made a motion to approve, Mike Immel seconded. The motion passed unanimously with Karen Conner abstaining. The Resolution is as follows;

HAT ISLAND COMMUNITY ASSOCIATION

BOARD RESOLUTION RE: INDEMNITY OF BOARD MEMBERS

WHEREAS, Karen Conner is a current board member and Susan Dahl and Alan Dashen are past Board members (collectively referred to as "Individuals").

WHEREAS the Individuals have been named as defendants, in their individual capacities, by the

Plaintiffs in Snohomish County Cause No. 14-2-04595-4.

WHEREAS, the Hat Island Community Association is organized as a Washington nonprofit corporation, subject to RCW 24.03.

WHEREAS, pursuant to RCW 24.03.025(4)(c), a nonprofit corporation's articles of incorporation may include a provision eliminating or limiting the personal liability of a director to the corporation or its members, if any, for monetary damages for conduct as a director:

PROVIDED, that such provision shall not eliminate or limit the liability of a director for acts or omissions that involve intentional misconduct by a director or a knowing violation of law by a Director, or for any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled.

WHEREAS, pursuant to Article XI of the Restated Articles of Incorporation of Hat Island Community Association, "No Trustee shall be liable to the Association, or to any of its members, for monetary damages arising from his or her conduct as a Trustee; provided, that this immunity shall not apply to acts or omissions of a Trustee that involve intentional misconduct or a knowing violation of law, or to any transaction from which the Trustee will personally receive a benefit in money, property or services to which the Trustee is not legally entitled."

WHEREAS, pursuant to Article X, Section 3 of the Bylaws, "The Association shall indemnify any director or officer or former director or officer or other person in the manner and to the extent provided in the Revised Code of Washington, as now existing or hereafter amended."

WHEREAS, Article X, Section 3 of the Bylaws also requires that, "the Association shall indemnify or agree to indemnify a director made party to a proceeding or obligate itself to advance or reimburse expenses incurred in a proceeding without regard to the limitations of the Revised Code of Washington, provided that no such indemnity shall indemnify any director on account of:

- Acts or omissions of the director finally adjudged to be intentional misconduct or

a knowing violation of the law;

- Conduct of the director finally adjudged to be in violation of the Revised Code of Washington; or

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- Any transaction with respect to which it was finally adjudged that such Director personally received a benefit in money, property or services to which the director was not legally entitled.”

WHEREAS, after careful consideration of the claims alleged by the Plaintiffs in Snohomish County Cause No. 14-2-04595-4, the board of directors has found no basis to conclude that any Individual, or any other director, committed or participated in any intentional misconduct, any knowing violation of law or any transaction from which any director received a benefit in money, property or services.

.WHEREAS, pursuant to Article X, Section 2 of the By-Laws of Hat Island Community Association, “So long as a Board member, Association committee member, or Association Officer, or the Association managing agent exercising the powers of the Board, has acted in good faith, without willful or intentional misconduct, upon the basis of such information as may be possessed by such person, then no such person shall be personally liable to any owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of such person; provided that this Section shall not apply where the consequences of such act, omission, error or negligence are covered by insurance obtained by the Board.”

WHEREAS, after careful consideration of the claims alleged by the Plaintiffs in Snohomish County Cause No. 14-2-04595-4, the board of directors finds that Individuals acted, in good faith, without willful or intentional misconduct, based on the information available to them during their terms as directors.

WHEREAS, pursuant to RCW 23B.08.510, the Association may indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if:

- The individual acted in good faith; and
- The individual reasonably believed:
 - In the case of conduct in the individual's official capacity with the corporation, that the individual's conduct was in its best interests; and
 - In all other cases, that the individual's conduct was at least not opposed to its best interests;

WHEREAS, after careful consideration of the claims alleged by the Plaintiffs in Snohomish County Cause No. 14-2-04595-4 against the Individuals, the board of directors find that:

- Karen Conner acted in good faith and at all times acted in the best interests of the Association and never in opposition to the Association's best interests.
- Susan Dahl acted in good faith and at all times acted in the best interests of the Association and never in opposition to the Association's best interests.

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- Alan Dashen acted in good faith and at all times acted in the best interests of the Association and never in opposition to the Association's best interests.

NOW THEREFORE, the Board, with respect to the powers outlined above and in consideration of the Association's best interests, and after consideration and deliberation regarding the matters set forth herein, resolves as follows:

BE IT RESOLVED that the Association shall defend and indemnify the Individuals against liability incurred in Snohomish County Cause No. 14-2-04595 as required by its governing documents and applicable law.

BE IT FURTHER RESOLVED that in addition to the requirements to defend and indemnify the

Individuals, the Association has discretion to defend and indemnify the Individuals pursuant to its governing documents and applicable law. The Board hereby elects that the Association shall, to the full extent permitted by its governing documents and applicable law, fully defend and indemnify the Individuals against liability incurred in Snohomish County Cause No. 14-2-04595-4.

BE IT FURTHER RESOLVED that pursuant to the Association's governing documents and applicable law, the Board finds that the Individuals are not liable to the Association, to any of its members or any other party to Snohomish County Cause No. 14-2-04595, for monetary damages arising from his or her conduct as a Trustee.

Dated this _____ day of _____, 2017.

HAT ISLAND COMMUNITY ASSOCIATION

By: _____

It's President

ATTEST: The above resolution was properly adopted.

By: _____

It's Secretary

President Scott Holte asked for a motion to adjourn. Mike Immel so motioned and Udo Gerz seconded.

The meeting was adjourned at 10:08.