

HICA Special Board Meeting July 28, 2021

In attendance: Paula Bafaro President, Dan Jensen Vice President, Kurt Kassahn Treasurer, Aimee Chambers Secretary, Jonathan Thurman Trustee, Erik Smith Trustee and Don Stark Trustee.

Meeting called to order at 6:30pm

Go immediately to Executive Session to discuss legal matters

Return to community board meeting 7:30pm

Dan Jensen asked to speak to the board about the information he had discovered in his research of the history of the ACC and Hat Island. His research of the documents showed that following the 1990 resolution the ACC was a committee under the Board of Trustees with the Board of Trustees appointing new members up until the last mention of Bill Townsend in the 2008 meeting minutes as the Board Representative to the ACC. In 2010, as everyone is aware, the community voted to have the statement added to the bylaws. Dan's question is why are we needing to rewrite the resolution and what authority does the current ACC have to negotiate a new resolution.

Conversation took place among the board with Erik saying that in his early discussion with the island's lawyer and Scott Holte this information was never brought up.

Dan stated that while that may be the case it doesn't change the fact that the information does exist and that ACC members were appointed by the board.

More discussion took place and several board members said that the board had agreed to look at the revisions of the proposed resolution submitted by Sandy Bettencourt and Jonathan Thurman.

Dan said he would agree to move forward but he wouldn't relent on continuing to discuss the information he had discovered.

Review the ACC redline document from Jonathan Thurman

RESOLUTION OF HAT ISLAND COMMUNITY

ASSOCIATION BOARD OF TRUSTEES REGARDING

THE ARCHITECTURAL CONTROL COMMITTEE

WHEREAS, the Declaration of Restrictive Covenants for each division of Hat Island, most of which were recorded in the 1960s, established an Architectural Control Committee ("ACC");

WHEREAS, the Declaration of Restrictive Covenants declare, "No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the

structure have been approved by the Architectural Control Committee as to quality or workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot unless approved by said committee”;

WHEREAS, the Declaration of Restrictive Covenants declare, “The Architectural Control Committee shall have the absolute right to restrict or prohibit the construction of any building even though such a building is not otherwise restricted or prohibited herein, if in their sole discretion such building would be detrimental to the development of the plat”;

WHEREAS, the Declaration of Restrictive Covenants declare, “The Architectural Control Committee shall have discretion to allow exceptions to any provision of this document”;

WHEREAS, the HICA Board of Trustees (“Board”) desires to confirm that the ACC is an HICA committee consistent with the provisions set forth below;

WHEREAS, in 2010 the Hat Island Community Association members voted to amend the corporation’s Bylaws to include Article VI Section 8 granting HICA’s Board of Trustees authority to appoint members to the Architectural Control Committee and hear appeals to their decisions. Further, any Board appointed committee exercising the authority of the Board must comply with RCW 24.03.115. The Board seeks to comply with both its Bylaws and RCW 24.03 by adoption of the provisions set forth below ; and

WHEREAS, the current ACC members desire to affirm and document their agreement that the ACC is a HICA committee consistent with the provisions set forth below. All current members of the ACC will continue serving as a decision-making Committee for the HICA, subject to their agreement to this Resolution and signature affirming the same.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF HICA AS FOLLOWS:

1. The Board shall appoint two (2) Trustees to serve as voting members of the ACC. The two Board members appointed to serve as ACC members shall serve terms equal to their Board terms. The ACC shall include not less than five (5) or more than seven (7) total voting members who are in good standing. Non-Trustees shall serve six (6) year terms with staggered term expirations. The six (6) year term shall be calculated as starting from the date the previous term expired (September 30 of the applicable year), regardless of the date the appointment is made. Not less than 30 days prior to expiration of a member’s term, the then existing members of the ACC shall nominate one or more HICA members in good standing for the Board’s consideration in filling a vacancy. If the Board declines to appoint the persons nominated by the ACC, then the Board shall notify the ACC that additional nominations are required. The ACC shall then have not less than 30 days to nominate one or more alternative HICA Members to fill the vacant position(s). This nomination process shall be repeated until the Board approves a nominated person. If the ACC fails to provide a nomination, then the Board may proceed with filling the vacancy without a nomination or may request that the ACC provide a nomination within such time as the Board determines. Appointments to fill vacancies shall be made within the fourth quarter of the calendar year in which the vacancy occurs unless the nomination process extends beyond that time period.

2. As of the Board’s approval of this Resolution, the Board acknowledges that there are four ACC members (Sandra Bettencourt, William Townsend, Tom O’Day, and Erik Smith). These individuals will exercise their option to serve as one of the ACC Members, by agreeing to and signing the attached confirmations. The initial member terms shall be staggered as follows:

<u>ACC MEMBER</u>	<u>TERM EXPIRATION</u>
Sept 30,	2026
Sept 30,	2025

Sept

30,

2024

Sept 30, 2023

3. Removal of any member of the ACC requires a majority vote of the ACC membership, including the two board members. In the event a member is unable to complete their term for any reason, the remaining members shall nominate one or more replacement candidates for the Board's consideration. If the ACC has not provided nominations within 30 days of the vacancy, then the Board shall notify the ACC that a nomination is needed and provide not less than 30 days for the ACC to make said nomination. The individual appointed to fill a vacancy shall complete the remainder of the vacated term.

4. ACC decisions to approve or disapprove proposed improvements shall be in writing.

5. All decisions rendered by the ACC are subject to appeal per Article VI, Section 8 of the Bylaws. Any HICA member may appeal a decision rendered by the ACC. The appealing member may be the member who sought ACC review of a proposal or any member who claims to be affected by the ACC's decision. Notice of appeal must be submitted in writing to the HICA Office within twenty (20) days after receipt of the written decision of the ACC. The Board, in their discretion, may consider appeals submitted outside of the deadline but must also consider any prejudice caused to an owner as a result of the delay. A decision by the ACC that is not appealed within twenty (20) days or accepted by the Board for appeal as a matter of discretion shall be final. Within thirty (30) days after receiving a notice of an appeal the Board of Trustees shall hold a hearing on the same and shall consider all evidence presented by the aggrieved property owner, the ACC, and any other affected persons. The thirty-day deadline for a hearing on appeal may be extended by the Board for good reason. The Board of Trustees may affirm, modify or overturn the ruling of the ACC. The decision of the Board of Trustees shall be final. It shall be reduced to writing and shall be communicated to all parties.

6. This Resolution does not limit or change HICA's authority to levy reasonable fines, pursue alternative dispute resolution or other legal and equitable remedies.

7. The ACC shall maintain written policies and procedures consistent with this Resolution and the established CC&Rs, documents and business records including all ACC decisions will be kept on file as part of HICA's business records and made available for review by HICA members.

8. The Board of Trustees shall cover all ACC members under the immunities set forth in Article X of the HICA Bylaws and indemnify and provide insurance to ACC members to the same extent it indemnifies and insures Trustees. The authority of the Board of Trustees and ACC as discussed herein applies equally to lots on Hat Island which were not included as part of the Hat Island Community Association but which have become members of HICA by contract, application, or assignment.

PASSED by the Board of Trustees this _____ day of _____ 2021.
HAT ISLAND COMMUNITY ASSOCIATION

It's President

Attest:

Hat Island Community Association Secretary

Attachment #1

**HAT ISLAND ARCHITECTURAL CONTROL COMMITTEE
AGREEMENT TO SERVE**

The ACC Members listed below hereby agree with the provisions set forth in the **RESOLUTION OF HAT ISLAND COMMUNITY ASSOCIATION BOARD OF TRUSTEES REGARDING THE ARCHITECTURAL CONTROL COMMITTEE (ACC) dated: _____ 2021.** The Board and ACC agree that this collaborative resolution protects the interests of the Hat Island Community

Association, our governing documents, individual lot owners, and all persons serving in volunteer roles as members of the ACC.

This agreement is voluntary and made with the understanding that my term as an ACC member will expire on the date listed below for my position.

Position Number# 1 Expiration Date: September 30, 2026

Signed _____ Print Name _____ Date _____ Lot
Number _____

Position Number #2 Expiration Date: September 30, 2025

Signed _____ Print Name _____ Date _____ Lot
Number _____

Position Number #3 Expiration Date: September 30, 2024

Signed _____ Print Name _____ Date _____ Lot
Number _____

Position Number #4 Expiration Date: September 30, 2023

Signed _____ Print Name _____ Date _____ Lot Number _____

Jonathan began explaining the redlines in the document.

Paula: Jonathan, I had made some edits to the documents, and they were visible, but now I don't see them.

Jonathan: Yes I changed the document so you cannot make edits. You may still add comments.

Paula: So the only edits are those from you and Erik?

Jonathan: yes.

Paula: Jonathan, will you please move the document up? I had some comments at the beginning of the document, and we are starting in the middle.

In the section "WHEREAS, in 2010 the Hat Island Community Association members voted to amend the corporation's Bylaws to include Article VI Section 8 granting HICA's Board of Trustees authority to appoint **Board** members to the Architectural Control Committee and hear appeals to their decisions." We need to take out the word **Board**. That is not how the Bylaws Article VI Section 8 is written.

Jonathan: we can leave that in.

Paula: No. You can't quote a bylaw, and then add a word that completely changes the meaning. It has to come out.

Kurt: We were just trying to clarify.

Paula: You cannot quote a bylaw and then add a word that is not in the bylaw.

After some discussion Jonathan agrees to take the word out.

Paula: We have talked about this before. There is a conflict with Erik on the ACC while on the Board.

Erik: It sounds like you have a personal issue.

Paula: No. I am fine with you staying on the ACC as a Board Rep, but there is a conflict with you on the ACC while a Board Member.

Aimee: I am confused, Erik I remember from the working session that you agreed to be a board appointed rep for the ACC and this shows you as an acting member?

Erik: I never said that.

Aimee: Yes, you did and I remember Sandy was in agreement with this as it is a conflict of interest.

Dan: If you have a 6-person committee (2 board members and 4 others, and one of the others is a board member as well, then you have 3 board members in a 6 person team. If a new appointee, who is also a board member, replaces a non-trustee, then you have a majority of board members on the ACC committee. The conflict-of-interest issue is magnified.

I would also like a fixed number of members (either 5 or 7 – no even numbers) rather than a floating number (between 5 or 7).

The response was that it matched the by-laws for the BoT

Jonathan: I will make the changes and send it out again.

Paula called for a motion to adjourn at 8:25 pm. Dan seconded. Meeting adjourned.

DRAFT