

NPEA MEETING 10/24/2022

CALL TO ORDER: A meeting of the Newington Plantation Estates Association (NPEA) was called to order at the Newington Elementary School Cafeteria at 7:01 pm by President Randy Sadler. 37 Newington households were signed in at the start of the meeting (this number included no proxies). Secretary Kelly Roberts was absent and the meeting minutes were taken by Jennifer Roberts. Randy thanked everyone for coming to the meeting and encouraged attendees to express any concerns and ask questions during the meeting. Kevin Carroll took the floor and acknowledged Daniel Williamson, Thom Nolan, Mark Bacher, and David Peterson for their special contributions to the neighborhood.

Board members:

| | | | |
|-----------------|------------------|--------------|-----------------------------|
| President | Randy Sadler | 843-875-7440 | rsadler17@gmail.com |
| Vice-President | Mark LaVigne | 843-875-9988 | lavigma@aol.com |
| Treasurer | Jennifer Roberts | 843-607-8821 | tgrlily38@gmail.com |
| Secretary | Kelly Roberts | 843-532-5159 | klaroberts1960@gmail.com |
| Member-At-Large | John DuBose | 843-870-5338 | vmee@aol.com |
| Member-At-Large | Larry Collett | 843-323-2935 | larry@collettfoundation.org |
| Past President | Thomas Nolan | 843-693-7604 | npeanolan@aol.com |

MINUTES: Minutes from the last general meeting (4/25/2022) were reviewed. Thom Nolan moved to accept the minutes without changes. Motion was seconded by Mark Bacher and approved by a voice vote.

TREASURER'S REPORT: Mike Gobin, Account Manager, presented the most current financial report (see attached).

(1) Financial Review. Mike said Brian Kurtz CPA, Mt. Pleasant, SC, has completed the annual independent review of our financial records (see attachment). No problems were noted.

(2) CDs. The Board has authorized the purchase of 12 additional one-year CDs (at \$2,000 each) so we will have a total of 24 CDs maturing and rolling over throughout the year (creating a CD "ladder"). Mike said we now have 20 CD's.

REPORT OF THE BOARD:

By-Law Changes. The Board presented members with a complete set of proposed by-laws (attached). These by-laws incorporated improved wording suggested by NPEA's attorney, recent NPEA-approved changes, and changes needed to comply with state laws. Randy devoted an hour and twenty minutes explaining each article in the by-laws and answering questions from members. After discussion was completed, Fred Gleffe moved to approve the new by-laws as presented. The motion was seconded by John DuBose and approved by members by a vote of 28-5. Once they are recorded, these new by-laws will completely replace our current by-laws.

REPORT OF THE COMMITTEES:

a. COVENANTS. Thom Nolan (Chairperson) 843-693-7604 npeanolan@aol.com.
Committee members: Randy Sadler, Fred Gleffe, Mark LaVigne, Gene Orlando, John DuBose.

(1) Group Home. Neighbors have expressed concerns about a house recently sold on Boone Drive that is planned as a group assisted living facility. (See attachment for a discussion of this issue)

(2) Recent ARC Actions.

Axtell, Camper - letter sent
Axtel, Camper - letter sent
Thames, Boat, trailer - letter sent
Thames, Camper - letter sent
Smythe, Trailer - letter sent
Blake, Camper - letter sent
King Charles, Trailer - letter sent
Kenilworth, Camper, Trailer - letter sent
Plantation, Boat, letter sent
Plantation, Garage Conversion - approved
King Charles, Trailer - letter sent

b. POOL. Kelly Roberts (Chairperson) klaroberts1960@gmail.com.

Committee members: Victoria Merritt, Rob Gross, Sarah Gibson, Jena Ferguson, Natalie Clark, and Nancy Bacher. Mark Lavigne serves as the Board's liaison with repairs/pool company.

(1) **Report.** Randy reported that the 2022 pool season was a success. The Newington Pool had 165 pool memberships in 2022 (up from 146 memberships in 2021).

(2) **Refrigerator.** NPEA Board authorized the Pool Committee to spend up to \$1,500 for one new outdoor refrigerator for use at the pool snack bar. This purchase will take place before the start of the 2023 pool season.

(3) **Event.** A joint Social Committee/Pool Committee event was held at the pool on August 5.

(4) **Pool Membership.** Thom has asked that NPEA include wording in our by-laws to reflect our pool as a membership-based amenity (this is how we now operate the pool). The Board agreed and included wording on pool membership in the new by-laws.

c. SOCIAL. Jessica Toolin (Chairperson) 843-670-1796 jessicatoolin@gmail.com.

Committee members: Jessie Gardner, Charlene Kegg, Laura Sheppard. Upcoming social events include:

10-29-22 Halloween Fun - KCC Golf Cart Parade. Charlie Brown movie at Plantation Circle.

11-19-22 Fall Festival, 2 - 4pm, Pool Parking Lot. Vendors, Jump Castle, Santa Photos.

12-17-22 Holiday Parade & Movie - KCC Golf Cart Parade - A Charlie Brown Christmas at Plantation Circle.

d. NEWSLETTER. Emily Vick (Chairperson) 843-343-2506 emvick@hotmail.com. Emily's newsletter was distributed the first week of October. Contact Emily if you have articles for the Spring 2023 newsletter.

e. YARD OF THE MONTH. Kelly Roberts (Chairperson).

2022 winners are: 102 Kent Court, 326 King Charles Circle, 104 Churchill Court, 207 Sheffield Lane, 411 King Charles Circle, 80 King Charles Circle, 509 King Charles Circle.

UNFINISHED BUSINESS:

(1) **Lee Street Entrance.** NPEA Board has authorized up to \$1,000 to troubleshoot and repair the water and electrical service at the Lee Street entrance. The electrical outlets are not working, and the sprinklers are not fully operational.

(2) **Parking Lot.** Members have previously authorized the Board to spend "up to \$5,000 to make improvements in the NPEA pool parking area." This authorization deals with the unpaved parking area owned by NPEA. The members wanted a new load of gravel spread out in this area and they wanted to purchase a new bike rack. Action has been deferred pending a decision on the proposed community building project.

(3) **Website.** Some neighbors report they are unable to view our current website and they get a malware warning. Randy has been assured by Josh Wilson that our site has not been compromised with malware. As a workaround, for anyone receiving the warning, they should be able to add the site to the approved list from the instructions in the link on the pop-up page. Anyone encountering a problem should contact Randy. Larry Collet explained that he is building a new NPEA website which may incorporate features to provide NPEA meeting and event notifications to members, as well as a method to make electronic payments to NPEA. This new site should also solve our false malware issue.

(4) **Pool Facility Project.** Randy will coordinate meetings with Ed Kirsch and Gene Brislin to examine options for improving the condition of the Newington pool deck and building.

(4) **Newington Gardens Entrance.** Our landscape maintainer, David Peterson, added sod and plants the Newington Gardens entrance. Several members remarked that the appearance of entrance is greatly improved.

(5) **Berlin Myers Parkway Project.** Randy provided the following update to the project:

- a. The third and final phase was approved as part of the 2006 sales tax referendum by Dorchester County voters.
- b. On Aug. 8, work began on the \$137 million project to build the final 3.9 miles of the Berlin Myers Parkway.
- c. The parkway will include a four-lane roadway & a multipurpose pathway along the Sawmill Branch Trail for bicycle and pedestrian users.

Starting cash balance

Checking \$ 44,621.94
 Savings \$ 50,715.92
 CD's \$ 40,000.00
 TOTAL \$ 135,337.86

NEWINGTON PLANTATION ESTATES ASSOCIATION
FINANCIAL STATEMENT
September 30, 2022

| INCOME | SEPTEMBER | YTD 2022 |
|---------------------|-------------------|---------------------|
| Hoa Dues | \$ 0 | \$ 36,854.36 |
| Late Fees | \$ | |
| Advetising | \$ | |
| Interest | \$ 0 | \$ 14.53 |
| Other | \$ | |
| Pool Membership | \$ 0 | \$ 48,328.00 |
| Lessons | \$ 0 | \$ 183.00 |
| Rental | \$ 1,875.00 | \$ 6,855.00 |
| Concessions | \$ 557.00 | \$ 5,492.18 |
| TOTAL INCOME | \$ 2432.00 | \$ 97,727.07 |

| EXPENSES | MONTH | YTD 2022 |
|---------------|-------------|-------------|
| Bank Fees | \$ 0 | \$ 20.00 |
| Concession | \$ 47.27 | \$ 2,774.10 |
| Donations | \$ 0 | \$ 830.00 |
| Electric | \$ 1,033.93 | \$ 5,724.52 |
| Insurance | \$ 0 | \$ 7,110.00 |
| Landscaping | \$ 2,000.00 | \$ 6,795.00 |
| Legal + Acctg | \$ 0 | \$ 784.49 |
| License | \$ 0 | \$ 225.00 |

NEWINGTON PLANTATION ESTATES ASSOCIATION
FINANCIAL STATEMENT
September 30, 2022

| <u>INCOME</u> | <u>SEPTEMBER</u> | <u>YTD 2022</u> |
|------------------------|--------------------|----------------------|
| <u>EXPENSES CONT'D</u> | | |
| Management | \$ 495.00 | \$ 4,455.00 |
| Miscellaneous | \$ 0 | \$ 0 |
| News & Postage | \$ 653.62 | \$ 1,460.21 |
| Phone/Internet | \$ 115.87 | \$ 955.99 |
| Pool Service | \$ 0 | \$ 7,640.25 |
| Property Taxes | \$ 0 | \$ 0 |
| Repairs/Maint. | \$ 0 | \$ 29,540.00 |
| Signs | \$ 0 | \$ 1,222.63 |
| Social | \$ 0 | \$ 922.12 |
| Supplies | \$ 14.79 | \$ 779.96 |
| Water | \$ 158.41 | \$ 3,152.89 |
| Trash | \$ 0 | \$ 695.10 |
| Payroll- Wages | \$ 3737.18 | \$ 26,271.92 |
| Payroll- Taxes | \$ 0 | \$ 5,143.46 |
| Payroll- Service | \$ 0 | \$ 1,037.51 |
| TOTAL EXPENSES | \$ 8,256.07 | \$ 107,540.15 |

| | |
|---------------------|---------------|
| Ending Cash Balance | |
| Checking | \$ 38,797.87 |
| Savings | \$ 50,715.92 |
| CD's | \$ 40,000.00 |
| TOTAL | \$ 129,513.79 |



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May 11, 2022

Newington Plantation Estates Association
ATTN: Board of Directors
P.O. Box 654
Summerville, SC 29484-0654

Dear Board Members:

I was engaged by Newington Plantation Estates Association to provide a specific scope of assurance. This scope of assurance included ensuring that there was supporting documentation for disbursements from the General, Pool and Swim Team Bank Accounts for the Association for the 12 month period ending December 31, 2021. We have not audited or reviewed any financial information and therefore do not express an opinion or provide any assurance that any financial statements for this period are in accordance with accounting principles generally accepted in the United States of America.

Accordingly, I have analyzed the disbursements from both the General, Pool, and Swim Team Bank Accounts for the Association and found documentation supporting these disbursements.

Sincerely,

Brian D Kurtz CPA

Specializing in Small Business Accounting

GROUP HOME ISSUE

A house on Boone Drive was purchased to provide a home for the disabled. The home will house 4 clients and 2 staff members. At this point, NPEA doesn't expect to have any problems with the operation of this small group home. If we encounter problems, they will be addressed.

As far as monitoring the home, the HOA does not plan any direct supervision or overt scrutiny. We will, however, promptly investigate any issue that is brought to our attention with respect to this home. Much stricter rules apply for homes used as halfway houses, so we would certainly seek further legal advice should one of these homes appear in our neighborhood.

The Town of Summerville did not approve this home (other than processing a couple of remodeling permits). The Town was required to defer to State law on this matter. Approval to operate the home is governed by the SC Dept of Disabilities & Special Needs, and this state office licenses and audits the home.

NPEA asked our attorney, Suzanne Ulmer, to evaluate if the intended use of this home on Boone Drive is acceptable based on the NPEA Covenants. This is the guidance she provided to NPEA:

Community Options in Newington

8-12-2022

To: NPEA

Rhodes v. Palmetto Pathway Homes Inc. (1991) addressed a property owner filing suit to enjoin a nonprofit organization from establishing a group residence in a residential subdivision. (The second case, County of Charleston v Sleepy Hollow Youth Inc, discusses group homes, discrimination, and the FHA).

The South Carolina Supreme Court held that establishment of a group home that would be used solely as a dwelling for no more than 9 adults would not infringe upon the subdivision's restrictive covenant that prohibited use of property for other than private residential purposes. The performance of necessary functions incident to operating group home did not change the character of the group home from private to commercial within the meaning of the restrictive covenants; functions such as maintaining records, filing accounting reports, managing, supervising, and providing care for individuals in exchange for monetary compensation were collateral to primary purpose and function of family housekeeping unit.

The Supreme Court also found that enforcement of restrictive covenants would have the effect of depriving mentally impaired adults of rights guaranteed under the Fair Housing Amendments Act and state and federal public policy.

So, while a group home (I assume we are talking about a home for people with disabilities—there could be different issues to address if this was a halfway house (for drugs/alcohol/crime)) is likely exempt from the HOA's prohibition on commercial uses, it would still need to comply with the Covenants unrelated to their disabilities. The residents would need to comply with all covenants related to offensive activity, parking, unsightly conditions, nuisances, etc.

My recommendation would be to allow everything to move forward as it is. If, when the residents move in, there are issues, you need to assess those issues and address them just as you would any other homeowner. At this point, because no one has moved in yet, you have no reason to believe that this home will be any different from any other home.

Please let me know if there is anything further you need from me on this issue.

Thank you,
Suzanne C. Ulmer, Esquire
Kernodle Coleman
914 Folly Road, Suite 2
P.O. Box 13897, Charleston, SC 29422-3897

PROPOSED NPEA BY-LAWS

Dated: September 12, 2022

SUMMARY OF CHANGES

The Fall NPEA Meeting is scheduled for Monday, October 24, 2022, at 7 pm. At this meeting, the NPEA Board of Directors will ask Newington homeowners to approve the attached set of Association by-laws. These proposed by-laws contain wording and grammar improvements, they add a few new paragraphs commonly found in other HOA by-laws, and they make changes to comply with the South Carolina Nonprofit Corporation Act and the South Carolina Homeowners Association Act.

The NPEA Board asked Suzanne Ulmer, an attorney with the law firm Kernodle Root & Coleman, to help us with this update to our existing by-laws. She was asked to preserve as much of NPEA's current by-laws as possible, and she worked with the NPEA President and the Chairman of NPEA's Architectural Review Committee to make sure she understood our current rules and the way our Association did business. As you'll see, Attorney Ulmer put a lot of effort into this update, and she also had Trent Kernodle, a senior partner at her firm, double-check her final product. Her proposed set of by-laws were reviewed by the NPEA Board of Directors and unanimously approved on September 12, 2022. The Board collectively feels these are a good set of rules that NPEA can use for a long time.

The following is a summary of some of the significant changes found in these new by-laws:

ARTICLE I – CONSTITUTION OF THE ORGANIZATION

Adds definitions for four additional terms.

ARTICLE II – ASSOCIATION OFFICERS

Minor word changes.

ARTICLE III – BOARD OF DIRECTORS

Section 2. Election of Directors. Cumulative voting is not permitted. Cumulative voting is an election method in which a voter may cast as many votes as there are seats up for election. For example, in a contest with five winners, a voter may choose to divide his five votes in any combination; he may give three votes to one candidate, and two votes to another, or all five to a single candidate. This voting process is most often used for corporate board elections, and it is mandated by a few states. It is optional in South Carolina, but it must be specifically authorized by the by-laws if it is to be used.

Adds: Section 4. Open Board Meetings. Provides guidance for non-Board members who attend Board meetings.

Adds: Section 5. Remote Meetings. Allows a process to hold remote Board Meetings via electronic means if necessary. It might have been useful to have had this option during COVID-19. Remote meeting options have been incorporated into by-laws used by many other HOAs.

Section 6. Board Voting. Provides guidance allowing for Board decisions using email voting. This option has also been incorporated into by-laws used by other HOAs.

Section 7. Amending By-Laws. Requires the Board to have super majority (5 votes) when making a By-Law change.

Adds: Section 9. Ethics. This provides for a process to remove a Board member for cause. It requires the Board to have a super majority (5 votes) to recommend the removal a Board member. A final decision will

be made by the membership. Note: We don't have any provision for removing a Board member in our current by-laws.

ARTICLE IV – COMMITTEES AND SEMI-AUTONOMOUS GROUPS

(This is a new Article that deals entirely with committees).

Section 1. Committees. Makes it clear that the Board can overrule decisions by committees.

Adds: New Sections 2, 3 and 4. This provides by-law guidance for the Pool Committee and ARC.

ARTICLE V – MEETINGS OF ASSOCIATION MEMBERS (This was formerly numbered as ARTICLE IV)

Section 2. Membership Meeting Quorum. Increases the quorum requirement from 12 to 15.

Adds: Section 3. Lack of a Meeting Quorum. This section was derived from SC Law.

Adds: Section 6. Written or Electronic Ballot. Allows for NPEA matters or Covenant changes to be decided without a meeting by using a written or electronic vote. (This section was derived from SC Law).

ARTICLE VI – MEMBERSHIPS (This was formerly numbered as ARTICLE V)

Adds: Section 5. Record Dates. Defines dates of record for various official business actions (This section was derived from SC Law).

ARTICLE VII – NOTICE (This was formerly numbered as ARTICLE VI)

Section 1. Meeting Notice. Minimum meeting notice is now 10 days (instead of 7 days). This is the minimum notice allowed by state law.

Section 2. Proper Notice. Our attorney expanded the information contained in this paragraph. She updated the wording for notice to include any electronic media or means, so that we will not have to worry about revising the bylaws in the next five years or so when the world comes up with some new way to communicate.

ARTICLE VIII – MISCELLANEOUS

This is a new Article containing standard legal rules that were provided by our attorney.

ARTICLE IX – ASSOCIATION FILING HISTORY

This is a new Article with a listing of important NPEA legal documents.