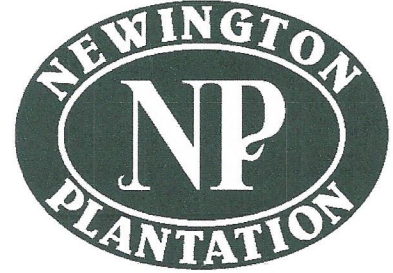


## ***NPEA BOARD MEETING September 12, 2022***

**I. CALL TO ORDER:** Board Meeting held at Randy Sadler's home. Meeting called to order at 7PM.

**Directors:**

President: Randy Sadler	(843-875-7440) <a href="mailto:rsadler17@gmail.com">rsadler17@gmail.com</a>
Vice-Pres: Mark Lavigne	(843-875-9988) <a href="mailto:lavigma@aol.com">lavigma@aol.com</a>
Treasurer: Jennifer Roberts	(843-607-8821) <a href="mailto:tgrlily38@gmail.com">tgrlily38@gmail.com</a>
Secretary: Kelly Roberts	(843-532-5159) <a href="mailto:klaroberts1960@gmail.com">klaroberts1960@gmail.com</a>
At-Large: John Dubose	(843-870-5338) <a href="mailto:vmee@aol.com">vmee@aol.com</a>
At-Large: Larry Collett	(843-323-2935) <a href="mailto:larry@collettfoundation.org">larry@collettfoundation.org</a>
Past Pres: Thom Nolan	(843-693-7604) <a href="mailto:npeanolan@aol.com">npeanolan@aol.com</a>



Larry Collett was absent due to an exposure to COVID.

**II. MINUTES:** 6-27-2022 NPEA Board Meeting minutes were approved by the Board on 7-15-2022 and posted on the Newington website.

**III. TREASURER'S REPORT:** Jennifer Roberts, Treasurer.

(1) **Report.** The most current Treasurers' report for June, July & August 2022 was provided (attached).

(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. We currently have 20 CD's.

**IV. COMMITTEE REPORTS:**

**a. COVENANTS COMMITTEE.** Thom Nolan (Chairperson) 843-693-7604 [npeanolan@aol.com](mailto:npeanolan@aol.com).

Committee members: Randy Sadler, Fred Gleffe, Mark Lavigne, Gene Orlando, John DuBose.

(1) **Group Home.** Neighbors have expressed concerns about the house recently sold on Boone Drive that is planned as an assisted living or group living facility. (See pages 3-4)

(2) **Above Ground Pool.** On April 27, 2015, an agreement that was reached between NPEA and the homeowners at 515 King Charles Circle. In it, NPEA allowed the homeowners one year to remove a large above ground pool that violated the covenants. The home was subsequently sold, and the above ground pool was apparently never removed. Thom is talking with our attorney about our course of action.

**b. POOL COMMITTEE.** Kelly Roberts (Chairperson) [klaroberts1960@gmail.com](mailto:klaroberts1960@gmail.com).

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

(1) **Report.** Kelly reported that the 2022 pool season went well. The Newington Pool had 165 pool memberships in 2022.

(2) **Refrigerator.** NPEA Board has 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.** Social Committee/Pool Committee event, held on August 5, was a success.

(4) **Pool Membership.** Thom has asked that we change our by-laws to reflect our pool as a membership-based amenity. This is how we currently operate the pool. Our pool membership requirements are now included in our new proposed by-laws.

**c. YARD OF THE MONTH.** Kelly Roberts (Chairperson). Committee Report: 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,

## V. UNFINISHED BUSINESS:

(1) **Parking Lot.** Members have 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 gravel in this area and they wanted to explore buying a new bike rack. Action has been deferred pending a decision on the proposed community building project. Since the Board’s spending limit could cover this in the future, the Board will ask the members at the next NPEA meeting if they wanted to close this item.

(2) **Website.** Some neighbors reported they are unable to view our current website. Larry has built a new NPEA website which can eventually incorporate a method to make electronic payments directly to NPEA. We would like to switch to the new site after Larry makes his final edits.

(3) **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.** NPEA Board authorized up to \$2,000 for our landscape maintainer, David Peterson, to add more sod and plants the Newington Gardens entrance. He subsequently completed his work, and the entrance looks much improved.

## VI. NEW BUSINESS:

(1) **By-Law Changes.** A complete set of new draft by-laws (attached) was discussed by the Board. These incorporated wording suggested by our attorney, recent NPEA-approved changes, and other changes recommended by our attorney.

a. Mark Lavigne made a motion and Jennifer Roberts seconded: **“The Board approves the proposed by-laws as suggested by the NPEA attorney. These by-laws will be presented to the members for a vote at the next NPEA meeting.”** This motion was unanimously approved by a voice vote.

b. In an email to the Board, NPEA member Ben Hough requested a change to the by-laws, so the Past President is no longer a designated member of the Board. This designated position would become a third, elected member-at-large position. After discussion, the Board unanimously opposed this change.

(2) **Saw Mill Branch Trail.** The trail section from Bacon's Bridge to Dorchester Road will be closed for about 60 days. For now, the trail remains open from Carolina to Luden, then it crosses the street to the opposite side and continues down to Bacon's Bridge. The Luden parking area will be closed, and Kima Garten-Schmidt tells us there will be no signs directing people to park at Newington Park, nor any redirection of walkers to go through Newington. If necessary, the Sweet Tea Marathon race has an alternate route that doesn't affect Newington. The Town has looked at locating a trail entrance behind Harris Teeter (HT). HT owns the entire strip at the corner, so you must go through HT property, but they refuse to allow it (they claim it's a liability issue). Kima is going to see if there's any other way to get to this area and how much space the Town would need for entrance.

## VII. MEETING ADJOURNED.

Mark Lavigne moved to adjourn the meeting, and Jennifer Roberts seconded the motion. Meeting was adjourned at 8:50 pm by President Sadler.

Minutes Written by: Kelly Roberts on 9-12-2022.

Minutes Approved by: NPEA BOARD on 10-13-2022

  
Randy Sadler, NPEA President



## **Group Home on Boone Drive - Status**

The following is a summary of information received by NPEA on a proposed group home located at Boone Drive.

On Friday, 7-22-2022, NPEA Board members (Thom Nolan and Randy Sadler) had a meeting at Summerville Town Hall on a proposed group home at Boone Drive. Included in the meeting were Kima Garten-Schmidt (Town Council Dist. 5), Jessi Shuler (Town Planning Dept.), and G.W. Parker (Town Attorney). The Town provided an email, dated 7-21-2022, that they had just received from Community Options, Inc. (Alan Rose, Executive Director). The email provided some insight on the plan for the home.

Per this email from Mr. Rose, the group home at Boone Drive will be a "Community Training Home 2," which means there will be four clients living in the home. He said there will never be more than 6 people in the house at any time including staff. SC Dept of Disabilities & Special Needs (SC DDSN) will license and audit the home annually.

The Town said their involvement with this issue is restricted by State and Federal directives. The Town handles permits for occupancy and interior changes; however, any approval to operate the home is governed by the SC DDSN.

The Town said that, to date, Community Options, Inc. has opened a total of four group homes in Summerville. One started in Brandymill in 2015, one in Corey Woods, and two in Weatherstone in 2016. In all instances, they were initially opposed by the neighborhoods, but they still opened and are still operating as group homes. Community Options is not the only non-profit in the group home business. Other corporations also operate group homes in various lowcountry subdivisions. This is becoming more common.

Thom has since asked NPEA's attorney, Suzanne Ulmer, to evaluate if the intended use of Boone Drive is acceptable based on the NPEA Covenants and SC law.

Our attorney responded that it is unlikely that NPEA covenants would be able to restrict such a group home for the disabled or elderly. This is based on several rulings by the South Carolina Supreme Court. The court has held that a group home used as a dwelling for no more than 9 adults would not infringe upon any subdivision's restrictive covenant that requires homes to be used solely for private residential purposes. Enforcing such restrictive covenants would deprive mentally impaired adults their rights guaranteed under state and federal public policy and law.

Per our attorney's recommendation, if there are issues after the residents move in, NPEA can address them just as they would for any other homeowner. Also, NPEA can go back to their attorney and discuss this situation further if the home should ever become a halfway house for drugs, alcohol, crime, etc. At this point, the Association intends to wait and monitor what happens after the group home begins operating.

## Group Home at Boone Drive - Legal Opinion

Community Options in Newington

8-12-2022

Suzanne Ulmer  
to Thom, Randy

Good evening, Thom and Randy.

I am happy to do additional research, but I think your first impressions were correct.

Rhodes v. Palmetto Pathway (attached) addressed a property owner filing suit to enjoin a nonprofit organization from establishing a group residence in a residential subdivision. (The second case 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

Suzanne C. Ulmer, Esquire  
Kernodle Coleman  
914 Folly Road, Suite 2  
P.O. Box 13897  
Charleston, SC 29422-3897  
(843) 795-7800  
(843) 795-3032 fax



## Summary of Proposed By-Laws

NPEA Bylaws PROPOSED 8-15-2002, is an update of Newington Plantation's current bylaws titled NPEA Constitution and By-Laws dated September 24, 2018. The intent is to preserve as much of our current By-Laws as possible, but it includes wording and grammar changes, and changes have been made because of the South Carolina Nonprofit Corporation Act and the South Carolina Homeowners Association Act. The ultimate goal is to obtain a good set of rules that NPEA can use for a long time.

The first draft of new By-Laws was completed in early July 2022, when Randy provided Attorney Suzanne Ulmer a set of By-Laws that combined:

- (1) Suggestions that she provided to NPEA in 2019 following her full review of our By-Laws; and,
- (2) A few useful rules that are contained in the By-Laws for Ashborough and Kings Grant; and,
- (3) By-Law changes approved by NPEA at our most recent HOA meeting.

Attorney Ulmer modified this initial set to conform to current South Carolina law and regulatory guidance, and she also suggested improved language in several places to minimize confusion or misunderstanding over the intent. During her re-write, she asked Randy and Thom a number of questions to help her understand our current rules and the way we do business. Suzanne put a lot of time and effort into developing these new by-laws, and she also had them reviewed by another attorney in her firm.

The following is an overview of significant changes:

### 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. A voter may give more than one vote to a candidate. 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. Cumulative voting is often used for corporate board elections, and it is mandated by some states. It is optional in South Carolina, but it must be allowed in the by-laws if it is to be used.

Adds: Section 4. Open Board Meetings. Provides guidance for observing Board meetings.

Adds: Section 5. Remote Meetings. Allows a process to hold remote Board Meetings via electronic means if necessary. It would have been useful to have had this option during COVID-19. This remote meeting option is being incorporated into most By-Laws used in other HOAs.

Section 6. Board Voting. Provides guidance that allows the Board to make decisions using email voting.

Section 7. Amending By-Laws. Requires the Board to have 5 votes in favor when making a By-Law change.

Adds: Section 9. Ethics. This provides a process to remove a Board member for cause. It requires the Board to have 5 votes to start the process to remove a Board member. A final decision is made by the membership.

### 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.

### ARTICLE V – MEETINGS OF ASSOCIATION MEMBERS

(This was formerly numbered as ARTICLE IV).

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.

#### 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 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 a variety of legal rules that were provided by our attorney.

#### ARTICLE IX – ASSOCIATION FILING HISTORY

This is a new Article that helps NPEA maintain a list of important legal documents.

Starting cash balance

Checking \$ 70,265.49  
 Savings \$ 54,708.88  
 CD's \$ 36,000.00  
 TOTAL \$ 160,974.37

NEWINGTON PLANTATION ESTATES ASSOCIATION  
FINANCIAL STATEMENT  
August 31, 2022

INCOME	JUNE, JULY, AUGUST	YTD 2022
Hoa Dues	\$ 450.00	\$ 36,854.36
Late Fees	\$	
Advetising	\$	
Interest	\$ 7.04	\$ 14.53
Other	\$	
Pool Membership	\$ 12,403.00	\$ 48,328.00
Lessons	\$ 183.00	\$ 183.00
Rental	\$ 4,980.00	\$ 4,980.00
Concessions	\$ 4,530.02	\$ 4,935.18
<b>TOTAL INCOME</b>	<b>\$ 22,553.06</b>	<b>\$ 95,295.07</b>

EXPENSES	MONTH	YTD 2022
Bank Fees	\$ 0	\$ 20.00
Concession	\$ 1,847.94	\$ 2,726.83
Donations	\$ 0	\$ 830.00
Electric	\$ 2,475.49	\$ 4,690.59
Insurance	\$ 0	\$ 7,110.00
Landscaping	\$ 2,780.00	\$ 4,795.00
Legal + Acctg	\$ 284.49	\$ 784.49
License	\$ 0	\$ 225.00



NEWINGTON PLANTATION ESTATES ASSOCIATION  
FINANCIAL STATEMENT  
August 31, 2022

<u>INCOME</u>	<u>JUNE, JULY, AUGUST</u>	<u>YTD 2022</u>
<u>EXPENSES CONT'D</u>		
Management	\$ 1,485.00	\$ 3,960.00
Miscellaneous	\$ 0	\$ 0
News & Postage	\$ 120.00	\$ 806.59
Phone/Internet	\$ 352.30	\$ 840.12
Pool Service	\$ 7,640.25	\$ 7,640.25
Property Taxes	\$ 0	\$ 0
Repairs/Maint.	\$ 0	\$ 29,540.00
Signs	\$ 664.47	\$ 1,222.63
Social	\$ 400.00	\$ 922.12
Supplies	\$ 187.42	\$ 765.17
Water	\$ 1,590.91	\$ 2,994.48
Trash	\$ 281.35	\$ 695.10
Payroll- Wages	\$ 22,340.81	\$ 22,534.74
Payroll- Taxes	\$ 4,976.98	\$ 5,143.46
Payroll- Service	\$ 762.16	\$ 1,037.51
<u>TOTAL EXPENSES</u>	<u>\$ 48,189.57</u>	<u>\$ 99,284.08</u>

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

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