

# COWELL HOMEOWNERS ASSOCIATION, INC.

Open Session Board of Directors Meeting • Thursday, August 25<sup>th</sup>, 2022

## BOARD MEETING MINUTES

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<b>Board Members Present</b>	Mike Kindorf Edward Baluta Brian Beckon Rebecca D'Lima Ken Dixon Jason Moore	President Treasurer Secretary Director at Large Director at Large Director at Large
<b>Board Members Absent</b>	Mike Cannon	Vice-President
<b>Others in Attendance</b>	Bill Mazza of Common Interest Management Services	
<b>Meeting Location</b>	Teleconference	

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### CALL TO ORDER

The meeting was called to order at 7:02pm. It was determined that a quorum was present.

### HOMEOWNER'S OPEN FORUM

The Homeowner's Open Forum was held for those in attendance.

### APPROVAL OF MINUTES

A motion was made and seconded to approve the minutes from the July 28<sup>th</sup>, 2022 Board of Directors Meeting. **The motion carried unanimously.**

### COMMITTEE REPORTS

Committee Chair Dixon provided the Board with an update from the most recent Architectural Committee meeting. The Board was also given the General Manager's report detailing ongoing projects and any noteworthy property updates.

### TREASURER'S REPORT & FINANCIAL REVIEW

#### **Item: Treasurer's Report**

The Treasurer's Report was provided to the Board.

#### **Item: Financials as of July 31<sup>st</sup>, 2022.**

The Board received and reviewed the Association's financials dated July 31<sup>st</sup>, 2022.

### NEW BUSINESS / ACTION & DISCUSSION ITEMS

#### **Item: 2022 Annual Meeting Date**

At the March Board meeting, the Board selected October 22<sup>nd</sup>, 2022 as the date for the Annual Meeting of the Members. Historically this meeting has been held in September, but recent changes to election law required that the Annual Meeting date be pushed back roughly a month.

As the Inspector of Elections has determined that this year's Board election will be held by acclamation and no ballots will be mailed, the Board discussed the possibility of moving the Annual Meeting date back to the month of September.

A motion was made and seconded to approve holding the 2022 Annual Meeting of the Members on September 22<sup>nd</sup>, 2022. **The motion carried unanimously.**

**Item: AB 3182 CC&R Amendment (Rental Restrictions)**

A motion was made and seconded to approve the CC&R Amendment as provided by Berding & Weil to bring the Association into compliance with AB 3182, as the required 28-day member review and comment period has been satisfied. **The motion carried unanimously.**

The approved CC&R amendment has been appended to these minutes. The General Manager will work with legal counsel to finalize this amendment.

**Item: CPA Engagement Letter**

A motion was made and seconded to approve the engagement letter from Levy, Erlanger & Company LLP to audit the Association's 2022 financials and file the Association's 2022 federal and state taxes in the amount of \$3,665.00. **The motion carried unanimously.**

The Board directed management to obtain multiple competitive bids for this service in 2023, as it is believed to be a good business practice to enlist assistance from different CPAs on a regular basis.

**Item: Ratify Preschool Flooring Replacement**

A motion was made and seconded to ratify the proposal from S&G Carpet and More to replace the Preschool Art Room and Entryway flooring in the amount of \$5,894.00. **The motion carried unanimously.**

**Item: Social Events / Activities Committee**

A motion was made and seconded to reestablish the Activities Committee and appoint Gloria Birch as Committee Chair. **The motion carried unanimously.**

The Board directed Chairperson Birch to begin work on recommendations for future Association-sponsored social events. The Board also recommended an initial budget of \$3,000.00 for a 2022 Winter Holiday Celebration and will work with Chairperson Birch to further finalize the budget for social events in both 2022 and 2023.

**Item: 2023 Tree Work & Arborist**

The Board discussed contracting with an independent arborist consultant for tree work starting in 2023, to help create and maintain a multi-year tree care plan, manage an inventory of all common area trees, and assist the Board in obtaining competitive bids for tree work.

A motion was made and seconded to approve proposal #424746 from D. R. Tree Consulting for two arborist evaluations per year in the amount of \$5,280.00. **The motion carried unanimously.**

D. R. Tree Consulting will begin working with the Association to create a tree care plan for 2023 starting later this winter.

**Item: Clubhouse Hours & Usage**

The Board discussed potentially modifying the Clubhouse operating hours so that it opened earlier on weekdays, following several requests from homeowners. After thorough discussion of options and a review of all available data, a motion was made and seconded to change the operating hours for the Clubhouse to 12pm to 8pm on Wednesdays, Thursdays, and Fridays as soon as is practicable. **The motion carried.** Directors Beckon and Baluta opposed.

**Item: Security Patrol Discussion**

The Board discussed the current agreement with the Association's contracted security vendor, as well as possible adjustments to the schedule and arrangement (such as increasing the number of dedicated foot patrols). The Board would like management to provide several options for review at the upcoming budget meeting, as the security patrol schedule and options will be impacted by the budget.

STANDING ITEMS

**Item: Rental Requests**

A motion was made and seconded to approve the following rental request:

- 4495 Deerberry Ct

**The motion carried unanimously.**

**Item: Association Committees**

No action taken.

**Item: Late Fee Waiver Requests**

No action taken.

**Item: Good of the Order / Director's Comments**

The Good of the Order / Director's Comments portion of the meeting was held for those in attendance.

MOTION TO ADJOURN

There being no further business and no objections, a motion was unanimously carried to adjourn the meeting at 8:50pm.

EXECUTIVE SESSION SUMMARY

*Per Civil Code § 4935(e), any matter which was discussed in Executive Session must be generally noted in the minutes of the immediately following open Board meeting.*

The Board of Directors met in Executive Session on August 24<sup>th</sup>, 2022 where a disciplinary hearing was held related to dogs off-leash and an alleged assault on Association property.

The Board of Directors met in Executive Session on August 25<sup>th</sup>, 2022 to discuss the Walnut Country Swim Team lease agreement, the hiring of a part-time janitor, the Walnut Country Preschool contract, the pool maintenance contract with Sun Pointe Services, and a discussion of tree care vendors and options for 2023.

BOARD CERTIFICATION

I do hereby certify that the foregoing is a true and correct copy of the Minutes of the Cowell Homeowners Association Board of Directors meeting as approved by the attending Directors.

M. KINDORF

Director's Name

BOARD PRESIDENT

Office / Position

M. WA

Signature

31 OCT 2022

Date

RECORDING REQUESTED BY  
AND  
WHEN RECORDED MAIL TO:

COWELL HOMEOWNERS  
ASSOCIATION, INC.  
c/o

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(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

**SECOND AMENDMENT TO COWELL HOMEOWNERS ASSOCIATION,  
INC. AMENDED DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS**

**NOTICE**

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the California *Government Code*. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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**SECOND AMENDMENT TO COWELL HOMEOWNERS ASSOCIATION,  
INC. AMENDED DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS**

This Second Amendment to Cowell Homeowners Association, Inc. Amended Declaration of Covenants, Conditions, and Restrictions ("Second Amendment") is made on the date set forth at the end of this document by Cowell Homeowners Association, Inc., a California nonprofit mutual benefit corporation (referred to in this document as the "Association").

- A. WHEREAS, this Second Amendment is made with respect to that certain COWELL HOMEOWNERS ASSOCIATION, INC. AMENDED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, recorded on November 9, 1989, as Document No. 89 227765, in the Official Records of the County of Contra Costa, State of California (the "1989 Declaration").
- B. WHEREAS, a First Amendment to the 1989 Declaration was recorded on November 23, 1992, as Document No. 92 310987, Official Records of Contra Costa County, State of California (the "First Amendment"). The 1989 Declaration together with the First Amendment is referred to herein as the "Declaration".
- C. WHEREAS, the Declaration establishes certain limitations, easements, covenants, restrictions, conditions, liens, and charges which run with, and are binding upon all parties having or acquiring any right, title, or interest in, that certain real property located in the County of Contra Costa, State of California, and more particularly described in Exhibit A attached hereto and incorporated herein.
- D. WHEREAS, all of the covenants, conditions, and restrictions set forth herein shall constitute enforceable equitable servitudes as provided in California *Civil Code* section 5975, shall constitute covenants that shall run with the said real property, and shall be binding upon and inure to the benefit of each Owner of any portion of the said real property or the owner or holder of any interest or estate therein and their heirs, successors, and assigns.
- E. WHEREAS, recent statutory changes effective January 1, 2021, have resulted in a lack of conformity between the applicable law and certain provisions of the Declaration.
- F. WHEREAS, pursuant to California Civil Code section 4741(f), the Association's Board of Directors may amend the Declaration without approval of the Members to revise a provision not compliant with Civil Code section 4741.

G. WHEREAS, the Board of Directors, by a majority vote, desire to amend the Declaration pursuant to Civil Code section 4741(f).

NOW, THEREFORE, the Association hereby declares that notwithstanding anything to the contrary in the Declaration, the Declaration is hereby amended as follows (words with a strike through are deleted and in **bold italics** are added).

1. Article II, Section 14(a) ("Use Restrictions Pertaining to Residential Lots"), is hereby amended to read as follows:

Section 14. (a) The respective Residential Lots shall not be rented or leased by the Owners thereof for transient or hotel purposes, which shall be defined as (1) rentals for any period less than ~~Six (6) months;~~ **thirty (30) days;** or (2) any rental if the occupants of the Residential Lot are provided customary hotel services, such as room service for food and beverage, maid service and furnishing laundry and linen. Other than the foregoing obligations, the Owners of the respective Lot shall have the right to lease their Lots subject to the provisions contained in this Declaration and, in particular, this Section 14.

Defined Terms. Capitalized terms used in this Second Amendment and not otherwise defined herein shall have the meanings given in the Declaration.

IN WITNESS WHEREOF, we, the Board of Directors of the Association, pursuant to the requisite approval, and by means of the signatures of the President and the Secretary, do hereby affirm, approve, and adopt this Second Amendment in accordance with Civil Code section 4741(f), by means of the signatures of the President and the Secretary, and which Second Amendment shall be recorded with the Recorder of the County of Contra Costa, State of California.

DATED: \_\_\_\_\_

COWELL HOMEOWNERS ASSOCIATION,  
INC. a California nonprofit mutual benefit  
corporation

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

## **EXHIBIT A**

### **Legal Description of the Property Comprising the Development Subject to The Declaration**

All of that real property as more particularly described on that certain map entitled "Subdivision 3889" filed November 3, 1971, in Book 141, Pages 25-27, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 3935" filed February 23, 1973, in Book 154, Pages 38-44, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 3936" filed August 15, 1973, in Book 161, Pages 28-34, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 3937" filed May 14, 1974, in Book 169, Pages 6-12, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 3938" filed June 25, 1975, in Book 178, Pages 47-52, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 3939" filed July 19, 1975, in Book 160, Pages 8-16, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 3940" filed January 18, 1974, in Book 166, Pages 25-29, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 3941" filed December 27, 1972, in Book 153, Pages 28-34, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 3942" filed August 22, 1974, in Book 172, Pages 38-42, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 3943" filed May 31, 1972, in Book 146, Pages 45-50, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 3944" filed October 18, 1973, in Book 164, Pages 1-7, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 4544" filed July 14, 1976, in Book 186, Pages 19-23, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 4673" filed November 15, 1974, in Book 174, Pages 43-47, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 4674" filed September 29, 1976, in Book 190, Pages 7-10, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 4675" filed May 25, 1977, in Book 196, Pages 43-46, Official Records of Contra Costa County, State of California.

All of that real property as more particularly described on that certain map entitled "Subdivision 4838" filed June 15, 1977, in Book 198, Pages 14-16, Official Records of Contra Costa County, State of California.

Also included in the boundary and as Common Area is the following parcel of land (formerly the fire house):

Commencing at the most southerly corner of Lot 597 as delineated on the map entitled "Subdivision 3941", recorded December 27, 1972, in book 153 of Maps at page 28, Official Contra Costa County Records; thence from said point of commencement north 32°00'00" West, 60.00 feet; thence north 31°17'05" West, 34.81 feet; thence south 60°58'00" West, 49.69 feet to the true point of beginning; thence from said point of beginning south 60°58'00" West, 87.11 feet; thence north 29°02'00" West, 99.99 feet; thence north 60°58'00" East, 87.11 feet; thence south 29°02'00" East, 99.99 feet to the point of beginning.