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This letter is to inform and update the membership regarding 2 petitions presented to the Board of Directors in September, 2020. After receiving the petitions the Board then sent an information letter to all members. That letter explained to the membership that the BOD is addressing this and would be contacting legal counsel to assist in sorting this out. The Board's main goals in this process are to make sure that the Board is acting legally (protecting the HOA and membership rights) and to protect the HOA funds. This letter is to provide updated information regarding this situation.

The first part of this letter summarizes the issues at hand in a quick bullet point format. For those who want to read more this letter then expands on each of the issues. The Board will also be posting more in depth reports, as we write them, on the website (9mileranchhoa.org).

The petitions are demanding financial and legal audits and a special membership meeting for various votes (agenda items). The Board has completed having HOA legal counsel's evaluation, which is reflected in the bullet points below and in the rest of this letter.

Quick Bullet Points of Petitioned Agenda Items:

- A group of members are pushing for removal of 6 of 8 directors, for dramatic changes to the CCRs, and for the HOA to pay to have extensive legal and financial auditing performed. This is being done through petitioning and now illegal balloting held by an anonymous "fix-9mr" internet group.
- The ballot and meeting scheduled to be held by "fix-9mr" are illegal and may also include criminal violations.
- A true Special Membership Meeting, held by the HOA, to openly and legally address these issues will be postponed until Covid restrictions are lifted; Zoom video meetings and non-debated balloting are inadequate.
- Legal counsel states there needs to be a legal due process to remove directors, which is not included in the petition.
- The 6 directors petitioned for removal are up for reelection next June anyway (less than 8 months away).
- The HOA cannot legally spend funds on the financial and legal audits in the petitions.
- Legal counsel has advised that the proposed CCR changes, being brought forward by this group, include much needless complication, and some of it appears to be illegal.
- The Board will start addressing various potential CCR/Bylaw amendments incorporating a membership committee and legal counsel. This process will start next year.
- Sending anonymous letters laced with nonfactual statements, misinterpretations, slander and lies is not the way to create change for the HOA.
- HOAs are set up for members to affect HOA management by voting for directors, or to run for a position on the Board. Members or anonymous groups cannot dictate HOA management and perform balloting and official meetings.

- This group of members is costing valuable volunteer director time and effort sacrificing other important HOA work, as well as costing all of the members money paying for attorney bills and mass mailings that could otherwise be spent on much needed road gravel.
 - This Board has served the HOA with integrity, transparency and effectiveness and has done what our governing documents and state laws require. We have a true desire to do what is in the best interest of the HOA.
 - No Board members have breached their fiduciary duties, and we will continue to manage the HOA properly; contact us anytime to know as much as you want! Email bod@9mileranchhoa.org.
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More In Depth Information of Petition Agenda Items:

Financial Audit: The HOA Bylaws Article VIII, Officers and Their Duties, Section 8(d) states "...cause an annual audit of the Association books to be made by an accountant whenever requested by the Board or by 10% of the voting members...". Legal counsel explained that although our Bylaws give the Treasurer the *duty* to cause this audit, neither the Bylaws (Article VII, Section 1) nor the CCRs give the Board the *power* to take this action, ie. spend funds on this audit (see website for more info). In other words, it would be illegal for the Board to take this action. As an aside, this discrepancy would be good to address in amending the CCRs and Bylaws.

Stopping the funding of the Reserve Study: As stated in the prior letter from the Board this is not an issue, as the Board has no power to do this and has never intended, stated, or planned to fund the independent professional Reserve Study (see website for more info). We again remind that the Board only has the power to raise annual assessments 10% per year (approx. \$20 currently) and that the membership must vote in favor to raise assessments more than that.

Compliance Audit: Legal counsel has stated that nowhere in our governing documents, state law or case law does it allow the HOA to spend funds on this audit nor does it give the membership the right to require the audit (see website for more info). Again please remember that any HOA member can conduct their own audits at their own expense.

Changing the CCRs and Bylaws: The first words legal counsel shared after a quick review of the changes fix-9mr is proposing was verily, "this is not how you change your governing documents". Legal counsel found the suggested changes to be needlessly complicated and some of it potentially in violation of RCW 64.38 (HOA state law). The Board is in agreement that our CCR & Bylaws could be improved through amendment, but the process would be best organized by the Board and chosen committee and presented to the membership in a workable fashion, therein also receiving membership input. Revisions will also need legal analysis. The basic structure of each document (CCRs & Bylaws), and how they relate to each other, needs to be addressed, and discrepancies need to be resolved. The Board will start dialog to move forward with this at the next Board meeting.

Removal of (6) directors: Legal counsel's statement in reflection of how courts have actually ruled on this subject was verily, "An *election* is a popularity contest, but a *removal* is subject to valid reason." And further, "Courts view HOA Boards just like public municipalities; not only can you not remove counsel members without *proof* of breach of fiduciary duty, but it could also cause harm." Removing a director(s) is serious business. As in this case, if the 6 directors were voted off the HOA would be left with a non functioning Board of 1 or 2 members; business would come to a halt where no bills could be paid, no actions taken, collections would be halted, no road work accomplished, etc. A special election would need to be accomplished, which takes additional time and money. Legal counsel has warned us of the liability of this; of the Board's duty to not jeopardize the function of the HOA, especially when there has been no breach of fiduciary duty. All of this,

when by this coming June 2021 the terms are up for all six of the Board members that this group wants to be removed. In summary, this process would jeopardize the function of the HOA and cost the HOA even more funds.

The Board believes that the subject of removing directors because of alleged wrongdoing is a serious enough issue that an in-person meeting needs to be held; to give the Board and members a chance to address accusations and truth, to allow for due process. Covid restrictions will not allow us to have a meeting at this time. A Zoom meeting would be highly dysfunctional in this case, and cost the HOA yet more funds. Sending out a ballot for a 'ballot meeting' does not allow for due process; to remove directors based on angry letters, etc. does not fulfill the process. So the Board's decision is to hereby postpone the special membership meeting until Covid restrictions are lifted. If Covid restrictions are not lifted by/or near next June, when the annual ballot count happens to elect directors, then the members can choose NOT to vote any of these members back on the Board, if any of them choose to run for re-election (see more on the website). HOA law and governing documents require that a Board manages the affairs of the Association. The power the membership has is in their vote, or to run for a position on the Board. The process this group has taken has disrupted the HOA business and even threatens the sustainability of the HOA. All of this being done anonymously also does not allow members to know who is taking these actions. This not only sets up questions if one of them were to run for the Board, but it leaves a question as to why they do not identify themselves to stand behind their words.

This situation has/is effecting our HOA. There has been an estimated \$1,500 of HOA funds spent on this situation to date (we have not received final invoices from legal counsel); this is equivalent to the cost of 4+ truck loads of gravel, or also equivalent to 10% of the entire annual road maintenance budget. Mailings costs \$200+ each. Ballot votes cost far more. All the volunteer time involved has taken a toll on getting normal business accomplished. The Board has received many communications from members asking how they can support us and what can be done to stop this "toxic" situation. Many are concerned about the HOA.

This fix-9mr group has sent out a ballot and scheduled a meeting while posing that their actions are "official" for the HOA. When legal counsel reviewed their letters and ballots he stated that there are civil illegalities and potential criminal acts having been taken by the individual(s) who have acted as 'fix-9MR'. For one thing, they cannot pose as being official. To protect the HOA the Board has asked the attorney, per his suggestion, that a Cease & Desist letter be sent to fix-9mr.

The anonymous fix-9mr group or person has sent out letters to the membership that *personally* attack all of the Board members. If you would like to hear the Board members' 'side' of these slanderous attacks, please see the website for more info. The fix-9mr letters have also twisted truths in attempt to suit their personal benefit, left out important details that cause misrepresentation and misinterpretation, and are just downright wrong in their accusations.

This has been a challenging ordeal for the Board members and our HOA, wasting significant funds and work time on frivolous and defamatory actions and claims. The Board believes that most of this group just doesn't like the contract they signed (the CCRs). Some of them we believe are out to destroy the HOA for the same personal reasons. If this group decides to take this further and move it into court, know that this Board's actions are and have been clean. We stand tall on our work and we would win a case in court. We would also ask the court to award the HOA all costs to be reimbursed. After this letter the Board is now done with this issue until Covid restrictions are lifted, or the June 2021 annual meeting...whichever comes first. Hopefully this group causing this will stop their attacks and let this go. And, hopefully, no more HOA funds will be spent on this. Now we go back to work.

This is the truth, whether seen by your examination or seen in a courtroom: your elected volunteer board has diligently upheld our CCRs and state laws, managed *and improved* roads as best as possible within budget constraints, improved HOA income, established and maintained an Association website stocked full with Association business documents and reports, spent funds with good business efficiency and results, and radically turned around collections of past-due accounts. And, there is so much more. This Board has created a great foundation for future volunteer Boards members to move forward upon.

As always we invite you to contact us with any questions you have and ask for documentation. We would like to hear from you. (bod@9mileranchhoa.org)