

# Governing Documents Town Hall

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## PANELISTS

Christopher Martin – President

Jason Moss – Secretary

Derek Farnes – Vice President

Reed Hasson

Stan Rasmussen – Treasurer

### Welcome and Introduction of board members

1. Review of the Board's Mission Statement: Our mission is to represent our homeowners through effective management of the association and participation in local governments and outside organizations; encourage and maintain a sense of community through neighborhood initiatives; promote safety by working with public safety agencies; and enforce rules and covenants to preserve property values and increase community pride.
  - a. The mission statement was written and ordered intentionally and enforcing rules and covenants was purposely listed last. The Board's main focus has traditionally been community building activities (Easter egg hunt, BBQs, etc.), but the last year and a half has been difficult with not being able to gather as a community due to COVID.
2. As the Board has met with management companies and attorneys, we have been told that our CC&Rs are the worst that they have seen. The governing documents were written by the builder and for the builder and need to be updated.
  - a. Verbiage refers to the builder
  - b. Legal issues with state statutes that have changed
  - c. Very ambiguous. The documents are short because there is no specificity and leaves much up to the interpretation of the Board.
  - d. Issues that the Board doesn't currently agree with. For example, current CC&Rs prohibit any business activity in the neighborhood.
  - e. Not looking to increase scope or power, but to provide clarification for future boards and homeowners.
  - f. Parker Brown was not involved in this process at all. This process predates Parker Brown being the management company.
  - g. Looking for documents that match what the majority of the neighborhood wants and agrees with.

Review of Process: We are working with a real estate specific attorney who has advised us up to this point.

1. Five step process in general:
  - a. Board decided to address some of the issues which we have repeatedly been told about. Initial draft was provided by the attorney with minor input from the board. Board then reviewed that draft and made revisions. Our association is unique so we
  - b. Send out initial draft to homeowners for feedback

- c. Receive feedback and make as many revisions as necessary to get a draft that hopefully a majority of homeowners agree with
  - d. Draft a final revision with the attorney and release for vote by homeowners.
  - e. If final draft is approved then it becomes our new governing documents. If not approved, the Board can attempt more revisions or drop the motion.
2. Current CC&Rs stay in effect throughout this whole process up until approval of new documents.
  3. The Board feels there is a benefit in creating new documents instead of only amending the current documents. Adding amendments makes it more difficult for homeowners to know what are the most current policies.

Common Concerns: Received lots of feedback and the Board appreciates all that has been received thus far. Please continue to provide feedback.

1. Home businesses: The draft states that business activities are permitted without Board approval except in specific cases. These cases are covered by local ordinance and would include business activity which creates a nuisance or safety hazard for the community. The Board encourages home based businesses and in our current CC&Rs these activities are not allowed. This is one of the main reasons to update our governing documents.
2. Increase Board's power and authority: The Board does not feel the draft increases the scope and power of the Board. State statute provides the ability for the Board to manage the association. As our current governing documents do not provide specification on this topic, it would allow for a board to do whatever they want. The draft provides that clarification per state statute.
3. Increase cost and assessments: The draft does not call for an increase in assessments. There is no plan to increase costs and there is nothing contained in the draft that would require costs to be increased.
4. Right of Entry: This section should not have been included in the draft. The Board discussed this and the attorney gave us a few reasons why we may want to include it, but the Board decided that there was no reason to have it in our association. It will be entirely removed from future drafts.
5. Flags: The intent of this section is if you are flying an American flag that it is flown according to federal code. The absence of language about other types of flags was intentional, meaning that homeowners can fly any other flags that they want. This section will be revised to only require that American flags are flown in accordance with federal code.
6. Foreclosure: This is in our current CC&Rs. This is also defined in state statute. The current board has met specifically on this and made a resolution to never foreclose ever. Listed for educational purposes so that homeowners know state statutes allows for this.
7. Repeating state statute: The intention of including or repeating items covered by state statute is to be informative. Not many homeowners are familiar with the state statutes surrounding associations. We want to include them so homeowners know and are aware of them.
8. ACC: Our intention was to add clarification and not expand it.
9. Loans: This is included in state statute as well. The Board cannot see a reason that our association would ever need to take out a loan. The Board actually requires that a majority of homeowners in a quorum present at a meeting to allow for a loan to be taken out.

City Councilman Chris Condie: Chris provided his idea of how our association should be run on social media, and the Board received copies of that from many of the homeowners as part of their feedback. The Board wanted to give him some time to address us during this town hall:

1. Thanked each member of the Board and their families for the time spent serving on the Board
2. We are a community. The point of the CC&Rs is to help keep our community nice and keep our community strong as a whole.

3. This initial draft is only step one. We have to start somewhere. The Board can't just do something on its own. In this case, there has to be a majority of residents as a whole vote on it.
4. In recent months I've reached out to members of the Board and expressed my concerns and frustrations. The Board has been responsive to those. As we make comments and express ourselves, the Board is responding and that is what we want and need them to do.
5. Expressed appreciation for support of his ideas. As far as my ideas, maybe what I see as the future of our HOA may not be the reality of what it will be. But there is a common thread of thinking and we need to work together as a community and come to a common consensus that makes our community stronger and helps our neighborhood be stronger.
6. One of main concerns is that our current CC&Rs are very ambiguous and the danger that poses to us if they are left as is. We need to get the governing documents the way they need to be so that the residents of the community know what they are and are familiar with them. And then hopefully we won't need to worry about them. We all are homeowners and take pride in them and we shouldn't need to worry about the documents because we are doing what we are doing anyway.
7. We've only moved once in the last 13 years, and we only moved a couple streets over and stayed in Jordan Willows. We did that because we love the community and our neighbors. I appreciate all of the residents. There have been some frustrations and confusion, but we all have the intent to do what's right for the community, both residents and the Board.

Owner Questions: Using the question function, you can ask questions, give feedback, and say whatever you'd like. You are limited to 2 minutes to say whatever you'd like. After two minutes, the panel will address your questions and feedback. If a topic has already been covered, we will skip to another question. Please keep questions focused on the governing documents. The Board understands there are discussions about dissolving the association and issues with Parker Brown, however, this town hall is specifically for the governing documents so please stay on that topic. Please reach out to the Board for other topics you would like to discuss outside of this town hall. The Board also realizes that we could have done better throughout this process and with communication. Feel free to provide your thoughts and feedback on that. Please keep comments civil and respectful.

1. Charles Wood:
  - a. Apologize for raising the temperature on some conversations never intended for any kinds of threats to happen. Question about if businesses are going to be soliciting others within the community. My son is looking to start a lawn mowing business, daughter is looking to start a babysitting business. How will these types of business be affected?
    - i. Answer: Made a note to further discuss the soliciting restriction. Will also review with the attorney about why that would be included.
  - b. If something is allowed by state statute, you can still prohibit it in the governing documents, so why not do that with some of this stuff?
    - i. Answer: The CC&Rs can be more restrictive but not less. However, depending on the state statute being prohibitive or admissive, it makes it complicated. There are some where we may be able to include additional restrictions, but we will need to discuss that with the attorney.
2. Casey Nielsen:
  - a. How do we go about getting the vote for this?
    - i. We can't get enough owners to a meeting to hold a vote, so we will likely have to gather signatures. In the past, volunteers have gone door to door to gather signatures. The process for this change has not been decided yet.
  - b. Can we add a secondary question to the amendment which asks if you prefer having an HOA or not having an HOA? To see what the general consensus in the community is.

- i. We probably could, but it would have to be a separate document from the CC&Rs. We could but we would need to discuss it as a board.
- 3. Camila Reppeto:
  - a. How many members have joined this meeting?
    - i. 137 homeowner lots attended the town hall (including board members).
- 4. Elijah L:
  - a. No question. Appreciate how hard the board members are working in addition to their full-time jobs. Support you.
- 5. Brett Monte:
  - a. Is the towing rule for cars still in the draft?
    - i. We haven't done a full revision of the draft. So it is still in the draft but will continue to be discussed.
- 6. Steve Olsen:
  - a. Concern about the financial aspects of the CC&Rs specifically with assessments and loans. Even though we may have a board currently who is not interested in raising assessments, do we have the right CC&Rs in place that protects the community and requires approval for those?
    - i. The Board has discussed this and has added additional controls on some things, and there are some where additional controls may need to be added. Past boards have done some things that were too much for our level of HOA, so there is room for more controls possibly. If you have any specifics of things, please email the board your thoughts on them.
- 7. Adrienne Y:
  - a. Why are we repeating what is in city code, seems like it would be better served to point people to the code instead of repeating it and causing a need to revise our CC&Rs when city code changes?
    - i. The restatement is kind of two-fold. One, for educational purposes so that owners can find it more readily. Two, if we don't put in the CC&Rs then the association couldn't help enforce it as well. The Board has discussed whether we want to only rely on the city, state, county, etc., to enforce certain things, and for some issues that makes sense. But we've had owners report some issues and they want the association to help enforce those items. If you have specific points, please share that with the Board so we can look at that specifically. We could go the whole way down to saying "The HOA complies with city code, period." But we, and our attorneys, think that is unwise and we need to find the right balance for our community.
- 8. Todd Dewsnpup:
  - a. I sent most of my replies in an email. I don't have any other questions, just wanted to thank you all. Also, I have liked Parker Brown and I think things have been more fair and balanced since PB has come on.
- 9. Michael Taylor:
  - a. How are you going to ensure we have a community driven HOA rather than using a template CC&Rs?
    - i. Going back to what Chris Condie said, we've got to start somewhere and starting from a blank slate is difficult. We discussed starting with our current documents and tweaking them, but they were so bad so we worked with the attorney to get the draft started. There was some condo-like language that was in there but the Board tried to remove as much of that, but we do think the draft is intended for a single-family association. The Board looked at 4-5 different associations' documents across the entire spectrum and thinks that the draft we have is in the middle somewhere. High level feedback has been

good to help direct the focus on what may need to change, but maybe getting more specific and in depth feedback from the homeowners.

- b. I don't see specifics on why we need to implement some of these things, so why are they included? What are the things the HOA board can't do that we need them to do, and how do we give the board the power to do that? Rather than adding things that aren't applicable to our community. How do we know that added things to the CC&R are based on a community as a whole and not just one frustrated homeowner?
  - i. One is the feedback. If there is something in there that only one person likes and everyone else hates, the Board will hear (and is hearing) about it. In the end, we need to get 67% of homeowners to sign off on this. If there is one thing that doesn't fit into general consensus, then we most likely won't get that approval. But we also need to understand that our community is made up of 600+ households, so there won't be a perfect document for every single homeowner.

10. Daniel Wallace (Michelle):

- a. Thank you for addressing these concerns. They have been addressed professionally and I appreciate the thoughts of the board. Recognizing we have opportunities to advance into a better way of communicating.
- b. I had a question about the single family occupancy part of the documents. What does a single family actually mean? How will that definition work with the governing documents?
  - i. We reviewed Lehi City's definition, and everything in our neighborhood is zoned as single-family only. Maybe there is room for us to add reference to what this definition is or refer to the city's code. The only way the code would change is if we rezoned.
  - ii. Definition from Lehi City Development Code, Chapter 39: Family – A person living alone or one, but not more than one, of any of the following groups living together as a single, nonprofit housekeeping unit, sharing common living, sleeping, sanitation, cooking, and eating facilities: 1. A head of household and any number of people who are all related to the head of household by blood, marriage, adoption, or court sanctioned guardianship; or 2. No more than four (4) persons when at least one of the individuals is unrelated; or 3. No more than two (2) unrelated adults and their children and other related family members.

11. James Anjewierden:

- a. Recommend adding a process or mechanism to update quoted city code in CC&Rs without having to go through all the amendment processes to update our documents.
- b. The good a good board can do for you rarely balances the bad a bad board can do to you. Can we use this opportunity to put in some safeguards to prevent bad boards from going overboard?
  - i. There is a provision in the section on the board in the bylaws which talks about the removal of board members. Is that in line with what you are thinking? If you have any specifics about ways in which you would like to limit the power of future boards, please provide them to the board.

12. Margaret Wan:

- a. How did the board find the lawyer which they are currently working with?
  - i. In UT there are 5 specialty firms that work with homeowner associations. We've interacted with three of them and found them via references. The Board reached out to 4 of the firms about the entire process and Miller Harrison fit what we needed best and came highly recommended.
- b. When we see the next updated CC&R copy, will it be redlined so we can see the language changes and things removed?

- i. Yes, we will send out a redline version as well as a clean version which will make it easier to read. When we released the initial draft, we considered sending out a summary document of the changes, however, we decided against it. One reason being we were afraid of being accused of hiding parts of it. For example, highlighting 3 things out of 10, and not bringing attention to the other 7. We understand some people wanted to read the entire document, and others may have wanted a summary, but could have been upset if we didn't highlight every single change.
  - c. Will the final draft be written in legalese or in common person language?
    - i. The final version language will probably be similar to current drafts. If there is a section which is not understandable, please point that out and we can work with the attorney to try and simplify. Unfortunately, contract law is written in certain ways but we will try to make things more understandable as possible.

13. Tiffany Lindstrom:

- a. Is the document all or nothing? How can we break things up so if there are items we agree to that we can have them passed instead of rejecting the whole document?
  - i. There are three ways that things can be made effective. One is through a full governing document rewrite which would be an all or nothing. Another is through amendments, and each amendment would be an all or nothing.
- b. Why is there so much language that gives the board so much power?
  - i. The third is intentionally managing boards. There are rights given to them through state code which gives them the flexibility to manage. Trying to write every definition of what could be considered a nuisance into the documents is impossible. We discussed trying to do this, but the Board needs that flexibility because not all possible issues can be enumerated. The attorney stated that associations are run in this manner and recommended to put in controls where needed, but it is impossible to define all things in the CC&Rs.

14. Tanner Nilsson:

- a. I'm not in a position to be able to speak, but my question is about the idea that was posted on Facebook that resonated with many about updating the governing documents to essentially remove all enforcement powers from the HOA, so no ACC and no management company, just community events and working with the city, etc. What are the possibilities around that idea?
  - i. I don't think at that point it makes any sense. We wouldn't need to write it into the CC&Rs for the community to work with the city and have events.

15. Caleb Abbott:

- a. I could not find it in the CC&Rs, but are there term limits for the board?
  - i. There are not term limits for the board.
- b. Does the board release an itemized list of money spent and saved through the year and is there a limit on how much is placed in the bank instead of being used every year.
  - i. The association does have a budget which is available for review upon request. There is not a limit on placing money into the bank, other than being fiscally responsible.

16. Julie Pettit:

- a. There was a comment by the board that they plan on asking the members of the new ACC to see which rules they would like included in the new CC&Rs - basically, it sounded like the board was asking the ACC which rules they would choose to keep and therefore enforce and which rules they would not want to enforce. Why are we leaving that decision up to a small, unelected committee instead of taking a survey of the general ownership?

- i. The Board has been serving as the ACC for a long time. We are moving in the direction of establishing an actual committee of homeowners for the ACC. We are trying to get input from additional people and we are open to getting that from multiple forums. We aren't asking the ACC to establish the rules or CC&Rs, but trying to get input from as many others as we can. There is also another document called "Design Guidelines" and the CC&Rs reference it. The CC&Rs would still reference those guidelines, but we want a committee to also review those and provide more clarity to the Design Guidelines.

17. Sarah Neilson:

- a. I think a lot of the confusion could have been avoided had the proposed draft been proofread or gone over. To me it feels like this is shady, like the Board was trying to hurry and not be honest. The Board should be our voice. Why is there language like "at the discretion of the board, or the board may adopt additional rules" in the CC&Rs? It leaves too much power to the board.
  - i. Things could have been done better. Don't think this is shady. This is step one where we are saying this is what we are thinking about. We have discussed already why there is verbiage which talks about the Board. It fits the idea of a representative government where you have people that you elect and allow them to manage.

18. Kathryn Ware:

- a. How much does it cost to file CC&R papers?
  - i. The cost for the attorney from the beginning to the finalization, is \$4500 flat rate.

19. Daniel Springer:

- a. No mic needed, when will a revision of the ccrs be sent out since so many items should not have been included in the 1st draft and will we be able to see a redlined version?
  - i. We don't have a specific date yet. We are still receiving feedback and will discuss as a board to make the revisions. Hopefully soon, but no specific date.

20. Karie Dean:

- a. We agree with Todd! We're happy to have Parker Brown involved in enforcing our CC&R's and keeping our neighborhood looking nicer than it has in the past.

21. Michael Taylor:

- a. How are we doing the filing? Are we amending what is currently on file or completely replacing and will that make the laws which are currently not applicable become applicable?
  - i. This would be replacing. The new laws are in effect today, no matter what. The attorney has said that there are certain portions of our CC&Rs that aren't applicable because they are less restrictive than state statute. So the state statute will always trump our current CC&Rs even if we don't amend them.
- b. Are we Can we separate informative points vs. HOA code, that way HOA isn't adding CC&R enforcement to city code? Is it homeowner participation that makes these things hard to source from the community?
  - i. Not quite clear about what you are asking about separating enforcement. Please send us some more information about that.

22. Brandon May:

- a. How long do you foresee this process taking to get to a final draft, as well as to get to a ratified document?
  - i. We don't know the exact timeline. Attorneys have seen from a few months to a few years. It depends on how quickly we can get feedback incorporated and get the draft to a place of consensus. The rest of the process is pretty quick. Once the signatures are gathered and ratified, it becomes official. Then just administrative filings. The Board is hoping it will only be a few months.

23. Cody Gardner (Rebecca):

- a. Why does the HOA need control over what happens in our backyard (like wanting to lay a cement slab)? I can understand if it goes above the fence line or is seen from the public, but if it has no effect on my neighbors whatsoever, why would I have to get approval? Going along with that, painting my front door, changing landscaping, etc. It feels like too much control and not enough autonomy and trust in me that I want to keep my home beautiful.
  - i. The reason associations have those restrictions is that because you may make great decisions about your home and take care of it, but your neighbor may not make those same great decisions. There are some within the association who have voiced complaints about changes that have been made without approval. So there are those differing opinions within the community. In the six years that Chris has been on the board, he doesn't recall ever flat out denying an application and a handful where the ACC reached out to the homeowners and came to an acceptable resolution. It isn't a control thing but finding the balance within the community, and that is why there is a committee where multiple voices are heard and Design Guidelines to follow.

24. Michael Standing:

- a. Concerning the ACC - can there be time constraints about how quickly the ACC addresses a request? For example, if someone wants to modify their yard can they expect a response within a specific time such as 30 days or the home owner can assume approval.
  - i. Currently, it is the inverse and after 30 days defaults to being not approved. The Board is unaware of any requests that have gone over 30 days. Usually, we answer within a week or two. We meet monthly so if anything is pending in the monthly meeting, we address during the meeting.

Conclusion: Thank you all for your participation and feedback. Continue to provide your thoughts as you desire. The more we communicate and interact, there tends to be more understanding. That doesn't mean opinions will always change, but we are able to share our ideas, context, and thought processes. Our main goal is find the right level of community and make Jordan Willows a better place.

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