

**Board of Directors  
Third Quarterly Meeting (Q3)  
September 8, 2022, 3:30 pm, Clubhouse & Zoom  
AGENDA**

**Welcome—Call to Order—John Brown, President**

John Brown called the Q3 meeting to order at 3:33 P.M. The third quarterly meeting is the last of the Board meetings the community is invited to. The Annual Meeting is set for December 8, 2022. The Board sets it up and runs it but it is actually a residents meeting.

**\*Recognize New Residents**

Welcome to all new residents. This Q3 meeting is important for new members of the community since John will explain about the importance of the Annual Meeting. The Annual Meeting is when nominees for the 2023 Board are elected and the budget is ratified or rejected.

**\*Thanks to All Committee Chairs and Members**

**\*Volunteer Position Openings**

John made an appeal to all residents. We really need committee members and chairs. If we can't get volunteers, work can come to a halt because of lack of resident interest. Please go to the website and look at what committees need volunteers. If one committee is advertising on the website and it's not one you want, contact the chair of the committee you are interested in. I promise you, we will find a place for you.

**Treasurer's Report—Brenda Bryan**

DVCA has a balance of \$260,039.95 of July 31, 2022, in various bank accounts. The total operating expense to date is \$52,299.76 which is 55.31% of our yearly operating budget. \$1,593.79 has been expensed from our Contingency Reserve account this quarter for replacement of kitchen dishwasher \$875.55. The pool motor was replaced for \$541.03. The replacement cost of a new deck box in the picnic area for \$177.21. From the Capital Reserve account, a total of \$79,378 was expensed; \$13,460 to Turner Asphalt for the repair of the lower parking and upper parking lot in front of the clubhouse and AGM for the lake fore bays dredging project totaling \$65,918.00.

**2022 Nominating Committee Report—Mike Thompson**

The Nominating Committee is on schedule with the nominees. Applications, to be completed by the candidates, have been sent out to the three candidates: Andrew Barrett, Brent Dorman, and Agnes Tyna. On September 14<sup>th</sup>, the committee will review the bios. submitted by the candidates; on September 20<sup>th</sup>, the nominating committee will interview the candidates. On November 9<sup>th</sup>, there will be a meet and greet where residents can ask questions of the nominees.

**2023 Board Nominations from the Floor—John Brown**

No nominations were made from the floor or Zoom.

**DVCA Voting Procedures—John Brown**

Voting in DVCA is done by lots. Everybody lot gets a vote. If an owner has more than one lot, they get as many votes as lots owned. For example, if you own three lots, you get three votes. If multiple people own a lot, the owners must designate one person to be the qualified voter. Robert Overbeck needs to know all qualified voters by October 15<sup>th</sup>. Are there any questions on that?

### **DVCA Budget Structure & Process—John Brown**

All committees, that have a budget, prepare a budget request with the help of their committee and the Finance Committee. These are submitted to the Finance Committee. The Finance Committee spends weeks reviewing the budget requests. This process goes through multiple drafts after the Board reviews the budget requests from the Finance Committee. The Board will have the final say as to what is in the budget and will present this to the residents, with a summary from the treasurer. After the Board adopts the budget, the residents will get a budget summary in the Annual Meeting mailing. Article 9.3, states how the residents vote on the budget and comes directly out of the NC Planned Community Act.

DVCA has two ways to vote on the budget; ratify or reject. If ratified, it goes into effect for the next year. If rejected, the current budget remains in effect until the Board can present another budget for residents to vote on.

If there is a motion from the floor to reject the budget, it needs a second. Then a vote is taken to determine if the budget is ratified or rejected.

### **DVCA Covenant & Bylaws Proposals Feedback—John Brown**

If you remember at the Q1 meeting, some recommendations were made to amend or change the governing documents, Covenants or By-Laws.

These are the results:

#### **2022 Potential Governing Document Changes**

- **Virtual Voting-Need determined by board review changes to the NC Planned Community Law**
- **Judicial Process-Recommended by two former board members**
- **Nuisance Definition-Recommended by attorney reviewing a DVCA hearing**
- **Budget Approval Process-Raised by a member at the 2021 Annual Meeting**

John commented: We have been using virtual voting for a year now due to the Governor's executive order. The State legislature decided to change the law which necessitates a change to our Covenants. Virtual voting and electronic voting will be on the ballot for vote.

#### **Resident Comments Results – 11 of 223 Potential Respondents Commented**

##### **Virtual Voting – 9 Responses out of 223 Potential Responses**

- **All nine respondents supported virtual voting**
- **Lawyer Response —“DVCA proposed changes look fine”**

##### **Judicial Process Changes – 8 Responses out of 223 Potential Responses create a separate Hearings Committee? – 8 Yes**

- **Serve on the Hearings Committee? – 6 Yes**
- **Agree with the proposed hearing process? – 4 Yes**
- **No lawyer review required—Board can implement**

John commented: Hearing Committee – all responses were in favor. Several said they would consider being on the committee. The Board has decided to immediately look at forming a Hearing Committee. Once we get a

chair and a few members, the Board will ask them to draft a charter for the committee. Once we are confident we can implement the committee, we will get an approval voted on by the Board.

Ken Kolb asked for clarification on this and John Brown answered. The Warning letter, Notice of Violation, Notice of Fine remains with the Board. The Hearing Committee would be responsible for sending a notice of a meeting and the findings of the meeting.

John commented: Judicial Process – 99.9% of the process in the Rules and Regulations is accurate. The Board could change this without the residents voting. One term that needed to be better defined was “nuisance”. They recommend we create a Hearings Committee. None of this requires a change. Lawyers said our proposed definition looked fine.

#### **Nuisance Definition Change – 6 Responses out of 223 Potential Responses**

- **5 respondents supported the proposed change, 1 recommended no change**
- **Lawyer Response – “DVCA proposed change looks fine, sustain board decision on what constitutes a nuisance”**

John commented: Nuisance Definition – Our lawyer felt our definition of a “nuisance” was too broad. The lawyer felt we could get in to a bind. The new definition of nuisance will be on the ballot and if approved, it will be amended in the Covenants. It will be an addendum and will be filed with the County.

#### **Budget Approval Process – 10 Responses out of 223 Potential Responses**

- **5 favored putting approval on the ballot, 4 favored sustaining current process**
- **4 favored a full vote at the Annual Meeting, 2 favored reject vote**
- **Lawyer Response – “Consider amending the Bylaws description of the Annual Meeting as follows: At the Annual Meeting qualified Voting Members will vote on applicable Director elections, **consider ratification** of the annual budget submitted by the Board, and **vote** on any other matters that have been presented by the Board in advance to the membership.” “The association can permit members assigning proxies to recipients unless prohibited by the bylaws.” The DVCA does not currently have authority to enforce such assignments. Assigning members may contact recipients and inform them of their voting preference.**

With the vote on the budget, the issue has been with the word “will” in Article IV, Section 4.2 of the Bylaws and the conflict with the wording in 9.3. The change to 4.2 will be “consider the ratification of the annual budget”. If approved, it would be implemented in 2023 and filed with the County.

Proxy – John gave this example

If Mr. Green can’t attend the meeting, and he asks Mrs. White to vote for him at the annual meeting, that is the right of Mr. Green. The question was, “Can Mr. Green tell Mrs. White how she must vote.” He has the right to do that. What if Mrs. White does not vote the proxy as Mr. Green told her? The question is: Do we as the Board have the authority to enforce Mr. Green’s designation. John stated the Board has no authority to enforce the vote. The question of Proxy will not be on the ballot. We, as an association, cannot enforce the proxy agreement between residents.

Any resident has the right to request a change to the Covenants and/or By-Laws. The process is to get 56 residents to sign a petition requesting a member vote on a particular issue. If that happens, the issue would be put forth to the voters and more than 50% of the voters must approve in order to make the change.

John stated there were only 11 responses out of 223 households. "If I was a pessimist, I might think people didn't care. I choose to believe that those who didn't respond are okay with the Covenants and By-Laws."

All of this information will be in the October Deerlake Diary. This will give residents time to make comments and then all the issues will be put on the annual ballot. Each item will require a separate vote. John stated he commended those who took the time to respond. The comments were very good and greatly appreciated.

#### Committee Reports

##### **Architectural Review Committee**

**Phil Davis – Chair – New Building Construction**

**Geoff Davis, Co-Chair, Existing Home Requests**

**Members: Bob Anson, Bob Cole, Phil Davis, Sue Jones, Bob Kellar, Lisa McHenry, Stan Moore, and Bill Raspa.**

##### **2022 Third Quarter Summary:**

- **During the 3rd Quarter the ARC has processed 4 resident's Requests for Modification:**
  - 1 repaint of exterior shutters and front door
  - 1 addition of a small concrete slab off of a rear patio
  - 1 replacement of a termite-damaged 16' garage door with an 18' garage door
  - 1 addition of a retractable awning over a newly-built rear deck
  
- **New home construction:**
  - The new home being built by Barbara and Bruce Cox continues under construction at Lot 51, 864 Deerlake Road. The house is now under roof and almost finished being "dried-in" with windows and doors in preparation for interior fabrication.

Phil commented: I appreciate Geoff Davis for stepping in to take the co-chair for existing home request-to-modify. John stated the Board has a technical issue. A board member cannot serve as a chair of the ARC, LRC, and Pool. We have skirted around it by saying Phil is the Acting Chair; however, we must have someone step up as co-chair of the New Building Construction.

##### **\*Clubhouse**

**Chairs - Lois Grabowski and Bonnie McMahon**

**Members- Pat Crawford, Irene Crosby, Nancy Davis, Maggie DiRocco, Rita Decklever, Mary Schram and Lou Shelley**

- TGIF has continued during Quarter 3. The average attendance is 33 residents. TGIF will continue on the 3rd Friday of the month from 5-7 PM.
- There we're 4 private parties in Q3 and 6 additional future parties scheduled for 2022.

- In July, one of the Clubhouse dishwashers was replaced.
- Cleaning contract was awarded to Stratus Building Solutions on July 2, 2022
- Planning continues for the Dec 10th Holiday Party.

Margo Williamson asked: If a resident wants to have a private activity in the picnic area, is a reservation needed or is it a “first come, first serve” basis. Can the party folks use the bathroom? John responded “No, that is a reservation for the Clubhouse.” He stated there have been more requests like this and he Board may have to look at this in the future. So far it has worked, even with two events coinciding.

Brenda Bryan made the comment that the new company, hired to clean the clubhouse, has saved the DVCA over a \$1,000 so far.

Joanne Boucher stated she wants to donate two microphones since the Zoom residents cannot hear the comments of those in the clubhouse. She will contact Jack Christfield.

### **\*Community Activities**

#### **Carol Weinhofer – Chair**

**Members are: Rhonda Spotts, Deborah Le, Linda and Robert Snowdon, Linda Kimbrough and Bill and Donna Raspa.**

- During the 3rd quarter, the CAC sponsored the 4th of July picnic and accepted donations for food and supplies. Next year the CAC will operate under a budget and no donations will be necessary. Many people participated in the semi-annual food drive on the 4th, to the tune of 257 pounds of goods and \$305 in cash.
- The committee has planned activities for the remainder of the year including a presentation on birds in September; the Appalachian shoe drive in October; a presentation on photography in November; and a combined cookie exchange/semiannual charity drive in December.
- More information and dates can be found in each month's Diary.
- If enough interest, there may be another outing to Oskar Blues. It would be fun to get a large group of walkers and cyclists to make the trek and then share lunch together. Perhaps in October when it has turned cooler and the leaves have changed?

John stated the mayor, Maureen Copelof, will be coming to the clubhouse to discuss health issue on October 5<sup>th</sup> at 4:00 P.M.

### **\*Community Relations**

#### **Chair – Brent Dormann**

- There were 4 concerns brought forth during the third quarter: All of which have been addressed and corrected.
- One was ongoing water being directed on to a neighbor’s property issue.
- Three were related to various issues of unkempt yards.

Brent would like to thank the other committee for helping when issues come up.

John stated Deerlake has an aggressive herd of deer, turkeys and bear in the community. The DPW has asked all residents be reminded they will not pick-up trash strewn around by the bears. John asked that all residents put trash out on the day it is collected.

## **\*Conservation Easement**

### **Chair – Melissa Driver**

#### **Members: Dave Gunther, Don Herman, Geoff Southworth**

- Summer has been the season for the community members to enjoy the Conservation Easement! Received one call of brush on the red trail needing to be cleared, but by the afternoon someone from the community had already done so.
- Otherwise, the only big item this quarter has been the transition of duties as chairperson from Don Herman to Melissa Driver. Don and Jack have debriefed Melissa on the history and responsibilities required to maintain the easement. They also conducted a thorough walkthrough of the property.
- Don Herman deserves a tremendous THANK YOU for serving in the role as Conservation Easement Committee Chairman for so many years. The conservation easement is one of the biggest benefits and assets to the community and he has been vital in ensuring it is accessible and available for everyone to enjoy. **THANK YOU DON!**

## **\*Directory—Robert Overbeck**

There is nothing new to report this quarter.

## **\*Emergency Preparedness—Bob Williams**

### **Bob Williams, chair**

#### **Members: Bobbi Moore, Ginny Hagerty**

- Whether good news or ill, there is news to report on the Emergency Action Plan for our dam. We have finally managed to contact John Garner, the engineer contracted to furnish our EAP.
- I was able to email our concerns - and the consequences of ignoring our requests for updates - and finally got his attention (see attachments).
- Mike Thompson can fill in the details if needed. But during my online investigations, I found some interesting details to the story.
- John Garner now appears to be linked with another engineering firm in Asheville; his photo appears on the website of Ellum Engineering, a small 2-3 person firm in Fairview; his staff engineer, Robert Davies, left Garner in April and now works at a much larger firm in Asheville.
- I called Robert Davies to get some background on why John Garner would keep putting us off like he has. Robert confessed he didn't have a direct answer, but did say that Garner operates off the principle of "the squeaky wheel gets the grease."
- It was time for our squeaking to get a little louder. I sent Garner an email (see attachment) that basically let him know that we might consider cancelling his contract if we don't get some cooperation on our EAP.
- He emailed me two days later.
- That said, we haven't heard any further updates. During my internet work, I turned up two additional engineering firms who do EAPs according to their websites. One of them, WithersRavenel, immediately answered my inquiry about preparing an EAP, saying yes, they do EAPs as a regular part of their work,

and even confirmed our dam's state identification number. I told them I was doing preliminary explorations and would contact them if we needed a quote.

- So that's where we are now. While we are once again in a lull in the update process, I remain hopeful that the EAP will indeed be completed by John Garner and we can move on. If not, we have an interested engineering firm willing to step up.

Mike Thompson reported the Department of Environmental Quality needs the EAP submitted to them. Thankfully, the Department has not sent any notifications that it has not been submitted.

Ken Kolb - This has been a problem for a while. Ken would like to express our disappointment in Mr. Garner's work ethic.

#### **\*Finance**

**Brenda Bryan, Treasurer**

**Members: Dorothy Chapman, Don Herman, Mary White, Cylin Sheaffer**

During the second quarter, the committee:

- Reviewed all financials to date.
- Reviewed DVCA vendor required Certificate of Insurance forms.
- Collected and reviewed 2023 Operating and Reserve budgets from Chair committees.
- Presented first draft of 2023 budget to the Board of directors
- Revised the Finance Committee Charter.

Brenda reported the Finance Committee is seeking quotes to insure our dam. Two companies have declined to quote. Another company has inquired about quoting but they just received the application. It will be a real problem if we cannot insure our high risk dam.

#### **\*Lake Management**

**Jim Furniss, LMC Chair**

**Lake Management Committee Members: Jack Baldrige, Phil Davis, Jim Douglas, Khoi Lee, Mike Thompson, Butch Willoughby**

- Three monthly dam inspections have been conducted by the LMC members to ensure that the condition of the dam is closely monitored.
- The dredging project is complete.
- Discovered and uncovered a blanket drain line at the toe of the dam adjacent to the lower parking lot near the pool.
- Prepared and submitted the 2023 budget.

Phil - You can see that the geese and turkeys have eaten all the grass seed spread after the dredging of the lake. The Lake Management Committee decided to let the crabgrass come on strong, rather than spread additional funds to re-seed. Thanks to all who helped out with the dredging project.

#### **\*Landscape Review**

**Chair: Sue Jones**

**Members: Cindy Bland, Miles Coady, Agnes Tyna, Twighla Vogelsong**

- The committee accepted the bid of Boyce Design & Contracting to produce a new long-term Master Landscape Plan for the Clubhouse area and Meadows Park. An initial design plan is being prepared and should be available for LRC members to review in September. The final plan should be ready for presentation to the community in December.
- The committee has been busy viewing homeowner's requests for LRC approval. The majority of these visits have been for tree removal. Heavy winds have produced some precarious situations of trees in close proximity to houses.
- We regret that Joellen Risacher has retired from her position with LRC. She has been a huge help in contacting and scheduling our twice monthly LRC visits with residents. We wish her all the best and hope she misses us enough to come back!
- The Committee is still in need of volunteers who are willing to help out in keeping our Deerlake community an attractive place to live.

Sue thought she might have a preview of the long term plan but the meeting is in two weeks. Sue and her committee have been working on updating the Landscaping plan. Sue also mentioned that the committee needs additional members. John remarked it is a great time to join with things winding down at the end of the summer.

#### **\*Maintenance**

**John McKowen – Chair**

**Members: Bob Cole, Don Herman, Ken Kolb, Earl Stifflear, Chris Williamson**

- Simpson Concrete finished the project to address drainage in the Meadows.
- Projects left in 2022
  - Remove the final sycamore tree in the picnic area.
  - Sealing work for the clubhouse.
  - Signal phase transformer for 2023 gate system installs.
  - Additional work from Simpson Concrete near the gazebo

John McKowen has been in touch with Duke to provide power to the new gate. We can install a transformer; however, it continues to be hard to find a single phase unit.

Margo Williamson asked if this means the gate is in the 2023 budget. John McKowen said yes.

Lois met with the fire department to determine if our fire alarms are current. Both are 10 years old and need to be replaced and the one over the fireplace needs to be relocated. She was grateful that John McKowen was there when the fire department came out to assess the fire alarms.

Simpson is working on the concrete area near the small pergola and steps. They plan to pour concrete on Monday. All using the pool are to use the gate from the parking lot..

Cherry trees – There will be a presentation by John Wayne regarding the cherry trees to determine residents' comments on the trees. Does the DVCA continue to pay \$1,500 each year to treat the trees or is there another option.

The roof on the clubhouse needs to be replaced. The roof has been in the reserve budget. John explained how the reserve budget works. An initial bid is solicited; then, the Finance Committee breaks the bid down so money can be saved over time. If we didn't save for the long term projects, a special assessment would need to be levied whenever work needs to be done.

#### **\*Newsletter**

**Rich Schram - Committee Chair**

**Members of Committee: Mary Schram**

- Deerlake Diaries were compiled, published, and mailed for July, August, and September in a timely manner.
- Newsletter publication support was provided by Robert Overbeck (address list maintenance), Bob Williams (label printing), John and Jean Reisch (Diary folding-sealing-labeling), Mary Schram (additional editing), various residents (thank-you snacks for UPS staff), and committee chairs/members (article submissions). This is not a one-person show.

Rich – Thanks to all who help with the Diary.

#### **\*Pool—Sandy Westney**

**Sandy Westney, Pool Chair 2023**

**Jack Christfield, Pool Liaison (Appointed 2022), Teresa Coady 2022, Penny**

**Gretni 2023, Lisa McHenry 2023, Robin Sorensen 2026, Dan Tyna 2023, Margo Williamson 2023**

- Things are going well at the pool. The numbers show just how much we are enjoying it. We have logged 1711 visits to the pool (and those are only the people who log in!).
- Pam Fuhrer has resigned from the committee. Pam and Larry have moved to the Hendersonville area. The Committee and Aerobics class had a lovely farewell gathering to thank Pam for her many years of commitment and service to her community.
- Two additional signs have been purchased and hung on the interior of each pool gate. The signs read, "LOCK THE CLUBHOUSE", can't miss them and yet clubhouse has been left unlocked several times since installation...I'm at a loss!
- Planned closing of the pool is scheduled for September 30, 2022.

Sandy reported the number of users at the pool is up over 400 people from last year. Please lock the door to the bathrooms if you have opened the door. It is not the responsibility of the last person at the pool. It is important that those using the parking lot display their parking permit. It helps monitor who is using the pool

#### **\*Welcome—Bob Agnew**

**Chair: Bob Agnew;**

**Members: Donna Raspa, Miles and Teresa Coady, Joy and Tom Shivers**

- Has now distributed the new ID buttons to the members of 168 households and the new car decals to 175 households (contact Bob Agnew at [bagnew@emory.edu](mailto:bagnew@emory.edu) if you need an ID button or car decal).
- Sent Welcome Packets to three households this past Quarter (July-Sept).
- Held an individual Welcome Orientation for the residents of one household. The August Welcome Orientation was canceled due to lack of interest – there have been very few new residents this quarter. The next Welcome Orientation is Tuesday, Oct. 4, at 5:30 in the Clubhouse.

- Orientations involve introductions, an overview of Deerlake amenities and rules/policies, and information on Deerlake committees – with the new residents being encouraged to volunteer.
- Published the bios of new residents in the Deerlake Diary.

Bob told all if a resident needs a car decal, please email him and he would deliver the needed decals. He encourages folks, especially using the pool, parking lots, lake conservation easement trails, to display a car decal sticker.

**\*White Squirrel Lane—Marcia Schneider**

There is nothing new at this time.

**NC Pandemic Response and Deerlake Village Activities—John Brown**

Transylvania County is currently in the orange status, one of the lowest. XXXXXXXX The County averages 23 cases a week. Buncombe County is in the lowest, yellow status.

CDC page has Transylvania County in the green status. Residents should feel comfortable masking if they choose to. The CDC Strongly recommends boosters.

**Borhaug Development Update—John Brown**

No plan changes or construction permit application have been submitted for his Deerlake Road development. Mr. Borhaug did get approval to change some of the duplex lots to single family lots. He has submitted plans and construction permits on the Osbourne Rd. property which borders Old Highway 64. It is unclear whether he still owns the property on Osbourne, which has several houses under construction. It has been reported Mr. Borhaug has received multiple offers to purchase the property on Deerlake Rd. He has refused the offers and the thought is he is still trying to get financing.

**Adjournment**

**Susan Toscani made a motion to adjourn the meeting at 5:24 . Phil Davis seconded. Approved**

**Open Discussion**

Margo Williamson reported Ingles has the next booster available and the website will tell you if you are eligible.

John thought CVS had the booster as well however, another board member stated they were not available as CVS as this time.

The Open Discussion time was adjourned at 5:26 P.M.