



17 Hawberry Court  
Asheville, 28805

**Sovereign Oaks HOA Board Meeting Minutes (Approved April 4, 2022)**

[board@sovereignoakshoa.com](mailto:board@sovereignoakshoa.com)

Sovereign Oaks HOA Meeting

Date: Sunday 3/13/2020

Location: Kirsten Kern's House; 17 Hawberry Court

Present

- Kirsten Kern, President
- Mark Jordan, Voice President
- Brad Allen, Secretary
- Javier Samayoa, Treasurer
- Mike Newton, Member

In addition to the Board members the following HOA members were present.

- Jim Cox and Sara Cox; 88 Wandering Oaks Way
- Leslie Connolly; 62 Wandering Oaks Way
- Morris (Moe) Davis; 125 Wandering Oaks Way

Call to Order — Kirsten Kern called the meeting to order at 5:06 p.m. after a brief delay to rearrange seating.

Brad Allen stated that he was pleased to see so many members of the HOA present but pointed out that, as a courtesy in the future, it would be preferable to inform the Board ahead of time of their interest in attending so the Board can structure its agenda accordingly and ensure adequate seating.

Approval of Previous Board Meeting Minutes. February Meeting minutes were approved unanimously.

**Greenhouse Update and Communications:**

- Kirsten Kern acknowledged the attendance of Leslie Connolly who had requested information about the replacement of the Greenhouse with a pavilion. Kirsten also acknowledged that the Board and the existing Greenhouse Committee could have been timelier in communicating updates on the project and indicated that Amanda Galvin of the committee is preparing a communication to the entire HOA membership outlining the scope and cost estimate for the pavilion replacement. She shared with those in attendance an illustration of the proposed structure.

- Mike Newton provided the following information: Total estimated cost of \$30,000 to \$32,000 includes expansion of the concrete slab, purchase of materials and installation of a “hay barn” style open roofed structure. The actual roof structure is estimated to cost about \$9,000; expansion of the concrete slab is currently estimated at \$10,800 and the remainder of the cost is for construction and additional materials and accessories as well as miscellaneous expenses. Funding is coming from the approved HOA budget line for maintenance as well as fines and penalties the DRC has assessed against builders for violations of guidelines.
- Mike indicated that community volunteers have already saved the HOA considerable money. Removal of the greenhouse structure was estimated at \$8,000 but has cost only about \$600 because volunteers did the work. The initial estimate for concrete installation was \$15,000 but has been reduced because much of the site preparation was done by volunteers. Weather has delayed the project, so Mike was unable to give a firm date on the completion. The current schedule calls for concrete installation sometime between March 16<sup>th</sup> and the 18<sup>th</sup>. Mike also indicated that he now has 55 volunteers who are willing to work on erecting the pavilion, indicating enthusiastic support for moving forward.
- Mark Jordan indicated that the pavilion project will be implemented in a phased approach and that installation of a proposed fireplace will not take place until 2023.
- Mark Jordan and Brad Allen pointed out that the HOA had planned on and budgeted for repair of the Greenhouse roof two years ago, but had deferred that maintenance because of extraordinarily high legal expenses the HOA incurred due to a mediation and arbitration process it was involved in with one HOA member.
- Leslie asked if the proposal has gone before the DRC. Mike Newton answered in the affirmative. She asked if the BOD had considered a special assessment to fund construction. Kirsten Kern, Mike Newton and Brad Allen all indicated their opposition to a special assessment for that purpose. Leslie also expressed concern about liability if the construction was not done with a licensed contractor. Mike indicated that the actual construction and the concrete slab installation both will be performed by licensed contractors with applicable building permits.
- Moe Davis asked if additional parking would be provided for. Mike Newton indicated that no added parking is being planned due to cost and space constraints.
- Brad Allen presented information about the extent of previous communication and acceptance among the HOA membership for replacement. On four separate occasions, beginning with the Annual Meeting in Sept. of 2021, the idea of replacing the greenhouse with a pavilion has been presented to the full HOA membership, with an overwhelmingly positive response. (The full report is attached at the end of minutes.)

**Treasurer's Report** – Javier Samayoa

(See separate Treasurer's reports.)

**Committee Updates --**

Facilities Update (Mike Newton) In addition to the Greenhouse /Pavilion project referenced above:

- The Front exit gate is fixed for now. Mike is fabricating a metal brace to reinforce the post anchoring the gate.

DRC Update (Mike Newton)

- The DRC has a few meetings scheduled this month on construction underway or about to commence.
- The Newman's are expected to close on the sale of their property (117 Wandering Oaks Way) in April.
- The builder approved for construction of Lot # 10 has resigned so that project is on hold.
- The builder on Lot # 34 is waiting on roofing material and communicated to the DRC that the schedule is slipping. They are still well within the 18-month window, but Mike indicated that the DRC appreciates the builder's proactive approach to communicating delays.
- **Cox Fence Request:** The DRC met with the Coxes concerning their recent March 1<sup>st</sup> letter to the DRC and the BOD, asking for a reasonable accommodation for an expanded fenced in area on their property. In the letter, Mrs. Cox asked for a reasonable accommodation under the North Carolina Fair Housing Act. based on their son's developmental disability and safety concerns. Following the DRC meeting the DRC had indicated it was conferring with legal counsel concerning their request.
- The Coxes indicated they did not understand why the DRC decision was delayed nor why the DRC and the HOA Board felt the need to involve legal counsel.
- A lengthy discussion with the Coxes, ensued. The following points were made:
- Kirsten Kern indicated that because the issue of a fence on their property had already been through a lengthy dispute resolution process, including mediation and binding arbitration, the HOA was consulting with the HOA attorney about how to proceed.
- Mark Jordan indicated that the Board has to take into account the interest and needs of all 97 lot owners in its deliberations.
- Separately, Mark, Mike and Kirsten also pointed out that the language in the Coxes letter to the DRC, stating that the DRC would face potential liability, necessitated that the DRC and the HOA Board seek legal counsel.
- Both Mark Jordan and Kirsten Kern indicated that the Cox's request still resides with the DRC, that the Board's role is one of seeking information to understand the legal issues involved, given the history of the dispute that had already gone through binding arbitration.
- Mike Newton said that both the Coxes and the HOA Board had agreed to abide by the arbitration agreement, which is a binding contract on both parties, so neither party could go back on that agreement without conferring with the arbitrator who had issued the decision.
- Brad Allen asked why the issue of their son's developmental needs had not been raised previously, during the mediation and arbitration process in 2019 - 2020. Mrs. Cox stated that she and her husband had brought up the issue of safety concerns several times during discussions with the DRC but had not brought up the issue during either the mediation or arbitration process out of "our sense of protection to talk about his physical or mental disability."
- Moe Davis commented, based on his previous experience as a certified mediator himself, that that the fact that there's an existing binding arbitration agreement can prohibit the parties from mutually agreeing to a different agreement under different circumstances. He then added, speaking as a Sovereign Oaks resident, that he thinks the HOA is spending "way too much money with this law firm" representing the HOA.
- Kirsten asked the Coxes if they felt the Board had heard their concerns. They replied that they did feel heard.

#### Trails and Landscape Update (Mark Jordan)

- Recent projects include repair of the railing atop the footbridge spanning Hemlock Spring on the east side of Bull Creek.

- The Committee has solicited four competitive bids for the landscaping contract which will be up for renewal June 1<sup>st</sup>. Mark has already led two landscapers around the neighborhood and is expecting to meet with a third, in addition to the current provider, Laurel Crest who is also expected to submit a bid. Mark will keep the Board informed of the progress.

Social and Communications Update (Kirsten Kern submitted the following from Social Committee Chair Sallie Klippel)

Kirsten-below is our calendar for 2022:

- March 19 – St. Patrick’s Party from 3-5 pm at the Bamboo Grove
  - BYOB and cup for water and Irish related snacks to share
- April 2 – Wine and Appetizer Group – 6:00 – 7:30 pm
  - Bring a bottle of wine and an appetizer to share
    - Klippel’s 34 Hickory Top Lane
    - Have 14 participants so far
- April 16 – Nature Walk at Warren Wilson College – details to follow. Art handling arrangements
- April 17 – Evie and Amanda handling coordination for Easter Bunny to deliver eggs to Homes
- Date to be set-Italian wine tasting at Amanda’s
- May 21 or 22 – Food Truck coordinated by Julie
- June-July-August dates to be determined
  - Greenhouse kick-off – BBQ and Sunshine Sammies
  - Food Truck
  - Neighborhood Camp Out
  - Nature or History Walk
  - Bull Creek Float Trip
- October
  - Chili Cook Off
  - Halloween Hayride
- December
  - Cookie Exchange

## **Discussion Topics**

1. *Insurance Request:* Moe Davis had previously submitted a written request for a copy of the HOA's liability insurance policy stating that he has "a pecuniary interest" in the information. The Board unanimously agreed to post the policy on the HOA website available to all HOA members as an HOA document.
  2. *Bookkeeping support:* A brief discussion ensued about the growing administrative demands on the Treasurer with the increased number of residents, increased building activity and number of transactions. Mark Jordan moved and Mike Newton seconded a motion supporting the hiring of a part time bookkeeper to support the Treasurer function. Brad Allen offered an amendment that the current treasurer, Javier Samayoa, make a recommendation to the Board, in consultation with Art Mandler if he chooses, in the hiring choice. Mark Jordan seconded the amendment. The motion passed, as amended, unanimously.
- *Neighbor Concerns, Neighborhood Harmony:* Kirsten referred to an email sent to her from HOA member Artie Miller, representing himself as well as HOA members Georgia Case, Jack Klippel, Harry Koolen and Tim Owings, all of whom had been members of the previous *ad hoc* committee that developed the Sovereign Oaks Values and Principles statement. The group was seeking to meet with her to discuss ways to restore harmony in the neighborhood.
  - Kirsten said she had a follow up conversation with Artie and reported that she and Artie had agreed that the discussions with this group needs to focus on going forward, building positive energy and culture -- not hashing up the past. Kirsten said she told Artie she thought the effort was worth pursuing, but she did not want to be the sole representative of the Board. Artie agreed to include another Board member.
  - Brad Allen suggested opening the meeting up to the entire community. Javier Samayoa expressed support for the effort and also suggested getting other members of the community involved as well.
  - Kirsten said that Artie told her their intention is to involve the wider SO HOA membership, but initially this smaller group wanted to get input from the Board before opening it up. Brad Allen pointed out that Javier is professionally trained and working in the field of change management as a consultant and would be an ideal Board member to meet with this group. The other Board members agreed. There was general support for moving forward on this basis.
  - At this point Moe Davis interjected that Artie had contacted him earlier in the evening, prior to the Board meeting, and his (Moe's) understanding was that Artie's and this group's intention is not "as broad a scope as what you're describing." Instead, Moe said the group is concerned "about us being loggerheads" and is seeking to avoid "ending up in litigation" with himself.

A lengthy discussion ensued with the following points being made:

- Kirsten Kern said that in both the letter and her conversation with Artie, there was no mention of avoiding litigation or focusing on a specific dispute but was about moving forward, building dialogue and community. She also stated that the Board has tried to be neutral in neighbor-to-neighbor disputes and indicated the Board will need to clarify the intent of the proposed meeting before agreeing to meet.
- Moe then added that some other neighbors not among the letter writers saw Artie's group as a way to help avoid future litigation.
- Brad Allen said that he was made aware that Moe had posted allegations on his (Moe's) Facebook page accusing the HOA Board of a deliberate misstatement in the posted minutes of

the January BOD meeting. Brad added that there was no deliberate misstatement and then suggested to Moe that if he had reached out and informed the Board of an error, the minutes would have been corrected. Moe indicated he thought that would be insufficient, citing in part, a post on Slack by his neighbor, Carolina Rojas of an email Moe had sent requesting trees be removed from her property, which he asserted was connected to the error in the BOD minutes.

- (Following this discussion, and later in the meeting, Brad Allen moved, Mike Newton seconded, and the Board unanimously approved amending the January minutes and posting a correction, reading as follows:

*[An earlier version of the January 2022 HOA Board meeting minutes misstated a conversation cited by Mr. Davis between he and his neighbor concerning removal of trees. That conversation, occurring some two years previously, concerned a request by his neighbor to have trees removed on Mr. Davis's property. The minutes had incorrectly stated that Mr. Davis had requested removal of trees in that earlier conversation. When the error was brought to the Board's attention by Mr. Davis at the March 2022 Board meeting, the Board voted to amend the minutes. Mr. Davis's subsequent request to have trees removed from his neighbor's property, accurately cited in the meeting minutes of the January 2022 HOA Board meeting, was made in the context of possible resolution of the dispute concerning the removal of a geodesic dome from the neighbor's property.]*

- Kirsten asked Moe to clarify what pending litigation is about. He indicated that he and the Board have a disagreement over the HOA's accountability for what neighbors posted on Slack about him. He also asserted that the Board's letter to the community and the previously described error in the Board's January 2022 minutes were also a concern. Brad asked Moe what other errors were in those documents as a basis for his contemplating litigation against the HOA. Moe said that the documents were "incomplete" in that they did not include details of his assertions to the Board.
- Moe said that one element of defamation is the harm suffered by an individual. When asked what harm he had suffered, he stated that, while he personally did not care what people thought of him, both he and his wife have been harmed, because they have been shunned as a result of negative comments made about him on Slack. He then cited a recent encounter with Brad when walking in the neighborhood which he described as being "snubbed" as an example.
- Both Mark Jordan and Kristen Kern pointed out that Moe has posted negative comments about Board members, the HOA and individual neighbors on his personal Facebook page. Moe countered that "harsh is not defamatory."
- Mark suggested to Moe that if he quit posting negative comments, that over time, the rift in the neighborhood would heal. He also offered that if Moe wanted to make a statement that he was "moving on" and putting past conflicts behind him, the Board would prominently post that statement in its minutes, which Mark said would also help lessen negative feelings in the community.
- Kirsten indicated that his public comments about the Board and the HOA that Moe had made on his Facebook page had damaged the reputation of Sovereign Oaks, both among the Asheville-area real estate and home building communities where she has extensive contacts. She cited as a recent example two professional architects who withdrew their applications to work on the DRC because of Moe's previous litigation and the impact his continued negative social media comments have had on Sovereign Oaks' reputation.

- Kirsten told Moe that if he was going to be watching how neighbors treat he and his wife to determine whether or not to sue the HOA, that attitude is not bridge building, in her opinion.
- Brad asked Moe to clarify the reason he requested a copy of the HOA's liability insurance policy, asking if it was in anticipation of him potentially filing a lawsuit against the HOA. Moe answered affirmatively that was the reason he asked for the policy. He then added that he also wanted to see the policy in light of the previous discussion with the Coxes, concerning potential liability that the HOA could face if it ignored their request, described above.

**Executive Session:** (All non-Board members had departed the meeting by this point.)

The Board went into Executive Session at 6:30 p.m. to discuss a long-standing unpaid invoice for Annual HOA dues and associated interest, the Cox letter and request, and the request from Artie Miller and the subsequent discussion with Moe Davis, as described above.

The meeting adjourned at approximately 7:15 p.m.

(Greenhouse/Pavilion project communications report is attached below.)

## MEMO

To: HOA Board  
From: Brad Allen  
Date: March 13, 2022  
RE: HOA Communications Concerning Greenhouse/Pavilion Project

Attached is a brief recap of communications between the HOA board and membership concerning the greenhouse/pavilion. To summarize, both the Greenhouse Committee and the HOA Board have repeatedly asked for input and the input that has been received has overwhelmingly encouraged the Greenhouse Committee to continue with plans to transform the Greenhouse into a pavilion.

As the summary below shows, the HOA membership has been invited to discuss the topic of replacing the greenhouse on four separate occasions. An informal email and in person survey resulted in positive responses from 30 separate HOA households and no negative responses. A more formal survey resulted in 52 'yes', 5 'no' and 2 'other' responses. Because that survey was anonymous, it not possible to know how many individual HOA households were represented but I assume that some of the 30 yes votes in the earlier survey did not vote again. As a result of the feedback from both efforts, I'm confident that replacing the Greenhouse has overwhelming support among the HOA membership. The most conservative interpretation of these results means that at a minimum one third of total HOA households, and possibly half, have given a positive nod to the idea of replacing the Greenhouse with very few (5) expressing a contrary opinion.

Below is a description of the four separate opportunities to weigh in on the Greenhouse question.

### **1. Sept 23 Annual Meeting**

50 lots were represented in person or by proxy and an additional 6 HOA households attended via ZOOM. During the meeting the topic of replacing the greenhouse was discussed.

The Greenhouse Committee presented the foillowing report as noted in the minutes:

- Greenhouse Committee – Amanda Galvin (Report attached.)
  - Members include Harry Koolen, Kirsten Kern, Nancy Hoer, Art Mandler and Georgia Case. The Committee had tasked itself with coming up with a plan and vision for what the space can be used for long term. The Committee concluded that it has more potential for the neighborhood as a social space rather than as a horticultural facility. However, the shutdown of social gatherings due to the Covid Pandemic put implementation of that vision on hold. The Committee has used the interim to develop the landscape around the Greenhouse and continue to work on the long-rage vision.



- Thanks are due to Matt Kern who spread wood chips and sowed grass around the area; Kirsten Kern for sourcing inexpensive Adirondack chairs and organizing a volunteer effort (Art Mandler, Artie Miller, Chuck Hinson, Kirsten Kern) to stain them, adding more outdoor seating; Nancy Hoer and Amanda Galvin for cutting and removing multiflora and opening up a trail along Musterfield Creek; Roger Gauthier for donating the “Little library” house adjacent to the Greenhouse. The Committee is planning a neighborhood plant swap organized on Slack.
- In addition, during general discussion, the topic of the greenhouse came up. Matt Kern mentioned that it’s not really conducive for meetings and such and the HOA should think about tearing it down and building something more suitable for our needs, such as a pavilion with a fireplace.
- No objections were raised, little discussion took place but there was an overwhelming affirmative “sense of the meeting” vote instructing the board to investigate.

## **2. 12 October SO Newsletter included a request for opinions on greenhouse replacement**

The SO Newsletter was sent to 146 recipients/ 100 opened the email. It included the following item:

### **RETHINKING THE GREENHOUSE?**

The current Greenhouse was built by the developer and given as community property to the HOA. While the idea of a community Greenhouse is appealing, in reality it’s not used for much. There is no Luther Burbank who has emerged so no horticultural experimentation going on there. The space is unusable as a meeting place during the summer (too hot) or the winter (leaky roof and no heat). While the Board has looked into repairing the leaky roof, several HOA members have raised the possibility of converting the Greenhouse into an open-air pavilion with a fireplace or fire pit and additional seating. This could be done as a community volunteer construction project with professional help where needed. Transforming the Greenhouse in this way would create a natural gathering place for the community that would get much more use than the current facility does. Before the HOA pursues this idea, we’d like to hear from HOA members. What would you like to see done with the Greenhouse? Write to Mike Newton at [choppermagnum@aol.com](mailto:choppermagnum@aol.com).

### **3. October 29 a separate email was sent to the HOA with just the query about replacing the greenhouse, repeating the same query from the 12 October newsletter.**

**138 recipients/ 110 opened**

**This email was sent to lot owners only, whereas the HOA newsletter goes to a broader list. That is why the number of recipients is lower.**

To All HOA Members:

The current Greenhouse was built by the developer and given as community property to the HOA. While the idea of a community Greenhouse is appealing, in reality it's not used for much. There is no Luther Burbank who has emerged so no horticultural experimentation going on there. The space is unusable as a meeting place during the summer (too hot) or the winter (leaky roof and no heat).

While the Board has looked into repairing the leaky roof, several HOA members have raised the possibility of converting the Greenhouse into an open air pavilion with a fireplace or fire pit and additional seating. This could be done as a community volunteer construction project with professional help where needed. Transforming the Greenhouse in this way would create a natural gathering place for the community that would get much more use than the current facility does.

Before the HOA pursues this idea, we'd like to hear from HOA members. What would you like to see done with the Greenhouse? Write to Mike Newton at [choppermagnum@aol.com](mailto:choppermagnum@aol.com).

The attached note was sent out as part of the Board Hot Topics for October. If you have already responded, thank you. If you have not responded, the Facilities & Greenhouse Committees would like your input. Thanks!

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As a result of these two mailings and outreach by board members, by early November we had registered 30 yes votes representing 30 separate lots, 0 no, votes and 19 people willing to volunteer on the project.

#### **4. 15 November the HOA Newsletter went out with a discussion of the greenhouse and a link to the survey, asking for opinions and input.**

**146 sent, 127 opened, 111 total clicks on survey, 54 unique clicks on survey**

From 15 Nov to 3 Jan people responded: 52 yes, 5 no, 2 uncertain

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#### **Hot Topics**

Please answer a Brief Survey on the Proposed Greenhouse Transformation!

Recently the Facilities and Greenhouse Committees sent out an email outlining a proposal

to replace the existing Greenhouse with an open-air outdoor pavilion. The overwhelming response (nearly 30 households so far!) has been positive, and we've received several comments and ideas.

To recap the proposal, the idea is to transform the existing Greenhouse space into a more useable community gathering place -- a pavilion. The existing 17' x 32' structure would be removed, the concrete pad expanded in both dimensions to approximately 24' x 42', a fireplace and additional seating would also be added. We've identified a local non-profit organization, Bountiful Cities, that creates urban agricultural spaces in communities that are considered "food deserts." If we move forward, they would be willing to dismantle and remove the structure at no cost to the HOA.

The HOA Budget includes \$10,000 to replace the existing leaky roof, which would be used instead for the pavilion project. Before we move forward, we'd like to hear from more HOA members -- actually, we'd like to hear from all of you! Even if you responded to the previous email, please take a moment to answer the brief survey question below and share your thoughts.

[Take the Survey HERE.](#)

If you have any questions, you can contact Facilities Committee member Mike Newton at choppermag

Thanks.

SO Facilities & Greenhouse Committees.