

BOARD MEETING AGENDA
SHHA Monthly Board Meeting January 10, 2024, at 6:30 PM
IN-PERSON MEETING
SHHA Office
Prepared by Trish Lovato

1. **CALL TO ORDER:** The monthly SHHA Board Meeting will be called to order by the President at 6:30 PM.
2. **ROLL CALL:** A quorum must be present. **P: Present; E: Excused; A: Absent**

| Officers | | Members | | Members | |
|----------------------------------|--|------------------|---|-----------------------|--|
| President – Roger Hagenruber | | David Crossley | | Heidi Komkov | |
| Vice President – Hugh Prather | | Elizabeth Edgren | | Eric Faulring | |
| Secretary – Martin Kirk | | Claudia Mitchell | | Kathleen McCaughey | |
| Treasurer – Randy Tripp | | Phil Krehbiel | | Susan McCasland | |
| | | Terry Walker | | Arthur Romero | |
| | | Jim Stewart | E | Suresh Neelagaru | |

Staff:

1. Diane Barney
2. Trish Lovato

Guest(s): None

3. **APPROVAL OF AGENDA FOR January 10, 2024**
 - a. Motion to approve Meeting Agenda and Consent Agenda
4. **CONSENT AGENDA APPROVAL:**
 - a. **ACC 12/20/23**
 - b. **CSC 1/2/24**
5. **OFFICER REPORTS:**
 - a. President (Roger Hagenruber):
 - (1) No report at this time.
 - b. Vice President (Hugh Prather):
 - (1) Reflections on the past year as your Vice President
 - c. Secretary (Martin Kirk):
 - (1) No report at this time.
 - d. Treasurer (Randy Tripp)
 - (1) No report at this time

6. COMMITTEE REPORTS:

a. **Architectural Control Committee** (ACC-Phil Krehbiel, Chair):

- (1) Matters to be presented to the Board not in minutes or reports since last meeting:
 - a. Report on ongoing and pending litigation in Executive Session
- (2) Requests for Board Action:
 - a. Motion to adopt a Policy for the Calculation and Imposition of Damages in Furtherance of the Enforcement of Reservations, Restriction, and Covenants of Sandia Heights.
 - b. Motion to table the Damages Assessment Plan.

b. **Covenant Support Committee** (CSC-Arthur Romero, Chair):

- (1) Matters to be presented to the Board not in minutes or reports since last meeting:
 - a. A meeting was held on January 2
As of January 2nd, 2 files were closed.
 - RV
 - Bright LightsAs of January 2nd, there were 10 complaint files open.
GRIT article for the January issue: None.
Committee Membership: 10 members.
Request for EC/Board action: None.
- (2) Requests for Board Action:
 - a. Discuss pending litigation in Executive Session.

c. **Community Service & Membership Committee** (CS&M) (Elizabeth Edgren):

- (1) Matters to be presented to the Board not in minutes or reports since last meeting:
 - a. No committee business conducted in December. Will hold a committee meeting on January 31st.
- (2) Requests for Board Action:
 - a. None at this time.

d. **Communications & Publications Committee** (C&P) (Susan McCasland):

- (1) Matters to be presented to the Board not in minutes or reports since last meeting:
 - a. Kevin Lloyd resigned as GRIT editor. Claudia Mitchell is interim editor until a permanent one is found.
 - b. Committee just met. Minutes will be distributed later this week.
- (2) Requests for Board Action:
 - a. None at this time.

e. **Environment and Safety Committee** (E&S) (Kathleen McCaughey)

- (1) Matters to be presented to the Board not in minutes or reports since last meeting:
 - a. None at this time.
- (2) Requests for Board Action:
 - a. None at this time.

f. **Finance Committee (FC)** (Randy Tripp)

- (1) Matters to be presented to the Board not in minutes or reports since last meeting:
 - a. None at this time

(2) Requests for Board Action:

a. None at this time.

g. **Nominating Committee (NC) (Hugh Prather)**

(1) Matters to be presented to the Board not in minutes or reports since last meeting:

a. Possible new board member being vetted.

(2) Requests for Board Action:

a. None at this time.

7. EXECUTIVE SESSION TO REVIEW ONGOING AND PENDING LITIGATION.

Motion to enter into Executive Session.

8. UNFINISHED BUSINESS: Action Items from last Board Meeting:

a. None

9. NEW BUSINESS:

a. None

10. ANNOUNCEMENTS:

a. None.

11. NEXT MEETING: The next Board meeting is scheduled for the Annual Meeting, February 24,

X__ Board of Directors
__ Executive Committee
__ Committee: ACC CSC CPC CS&M FIN E&S NOM

Date Motion Emailed:

SHHA MOTION FORM

STATING A MOTION, please remember:

- Who will follow through on the action? – President, Board, individual, Committee?
- If the action requires “reporting back” or completion—to whom? when?
- If money is involved, how much? Are funds available? How will it be financed?
- If a committee is involved, which one? Is its task to: Consider, Investigate, Act?
- If a special committee (ad hoc) is to be formed, who will chair it, number of members, its specific task (which can’t fall within the assigned function of an existing standing committee), and its anticipated termination date?
- Use the 5 W’s: Who, What, When, Where, Why (& How, How Much) as necessary.

I, ___Phil K___ move that:

EXPLANATION/JUSTIFICATION (if necessary):

See attached pages on

Motion to Table the Motion to adopt the Policy for the Calculation and Imposition of Damages in Furtherance of the Enforcement of Reservations, Restrictions, and Covenants of Sandia Heights Sandia Heights.

Signed: _____

Seconded: _____

SECRETARY’S RECORD:

No. 20 - ___ - ___ - ___ -
(year - month - day - # -

Committee)

(circle) **Voting by:** Voice Show of Hands Ballot

Unanimous Vote? Yes ___ No ___

Adopted Postponed Amended Lost Tabled

Referred to Committee (which one) _____

ACTION REQUIRED: POC _____ **DUE**
DATE _____

DISPOSITION (circle): P&PM BYLAWS

Form Version: 8-4-22

Motion to Table the Motion to adopt the Policy for the Calculation and Imposition of Damages in Furtherance of the Enforcement of Reservations, Restrictions, and Covenants of Sandia Heights Sandia Heights.

Move to table consideration of the proposed Damages Assessment Policy until:

1. The next regularly scheduled Board meeting in the month of March 2024; and
2. After a mass mailing to Sandia Heights residents/lot owners in the form attached;
 - Handled by the Communications & Publications Committee;
 - And accomplished no later than February 16, 2024.

Phil Krehbiel

Attachment to Motion to Table Consideration of Damages Assessment Plan

Sandia Heights Homeowners,

The Board of Directors of Sandia Heights Homeowners Association (SHHA) is considering a proposal that would give the Architectural Control Committee (ACC) and the Covenant Support Committee (CSC) an additional tool to assist in enforcing covenants in the neighborhood.

Why is this important? Our covenants are binding legal agreements that protect the beauty and enjoyment of Sandia Heights, along with property values, and why many of us moved here. The ACC and CSC work to maintain architectural uniformity throughout the community, order, and the maintenance of existing land and structures.

The Association has experienced a disturbing trend among some lot owners to simply ignore requests to correct covenant violations. The covenants give the SHHA legal authority to pursue various remedies in cases of violations, and the Association has in the past filed lawsuits against some lot owners who have refused to comply with their covenant's obligations. But litigation is expensive. The Association has in some cases chosen not to file suit because of the anticipated cost.

The proposal under consideration recognizes that the Association has the authority under the covenants to seek damages. It develops a schedule of damage assessments for cases where lot owners refuse to correct covenant violations. Any damages assessed, if unpaid, would result in a lien against the property. The New Mexico Homeowners Association Act grants an automatic lien to homeowners associations for unpaid assessments.

The damages assessment proposal would insert an intermediate step into the current enforcement process that is less drastic than litigation, and certainly less expensive for both the lot owner and SHHA. Otherwise, the process for covenant enforcement would remain the same.

Under the proposed system, the appropriate committee would investigate the complaint alleging a covenant violation. If the committee agrees that a violation is occurring, it will first contact the lot owner to seek compliance. If informal attempts are unsuccessful, the committee would then assess damages, which would begin after a period given to the lot owner to contest the matter in person or in writing before the committee.

Because the assessment of damages represents a departure from the past practice of either attempting to cajole compliance, ignore the violation, or file suit, the Board is soliciting your input, as a lot owner in Sandia Heights, with respect to this proposal. Comments can be submitted in writing to the SHHA office by mail, email (shha@sandiahomeowners.org), mail or hand delivery (12700 San Rafael Ave. NE, Ste 3). The deadline for submission is March 1, 2024. The damages proposal will also be a topic at the SHHA Annual Meeting in February.

X__ Board of Directors
____ Executive Committee
____ Committee: ACC CSC CPC CS&M FIN E&S NOM

Date Motion Emailed: Jan 7 2023

SHHA MOTION FORM

STATING A MOTION, please remember:

- Who will follow through on the action? – President, Board, individual, Committee?
- If the action requires “reporting back” or completion—to whom? when?
- If money is involved, how much? Are funds available? How will it be financed?
- If a committee is involved, which one? Is its task to: Consider, Investigate, Act?
- If a special committee (ad hoc) is to be formed, who will chair it, number of members, its specific task (which can’t fall within the assigned function of an existing standing committee), and its anticipated termination date?
- Use the 5 W’s: Who, What, When, Where, Why (& How, How Much) as necessary.

I, ___Phil K___ move that:

EXPLANATION/JUSTIFICATION (if necessary):

Re-visit from Dec - **the Motion to adopt the Policy for the Calculation and Imposition of Damages in Furtherance of the Enforcement of Reservations, Restrictions, and Covenants of Sandia Heights Sandia Heights – See following pages**

Signed: _____

Seconded: _____

SECRETARY’S RECORD:

No. 20 - ____ - ____ - ____ - ____
(year - month - day - # -)

Committee)

(circle) **Voting by:** Voice Show of Hands Ballot

Unanimous Vote? Yes___ No___

Adopted Postponed Amended Lost Tabled

Referred to Committee (which one)_____

ACTION REQUIRED: POC _____ **DUE**
DATE _____

DISPOSITION (circle): P&PM BYLAWS

Form Version: 8-4-22

SHHA Board Policy for the Calculation and Imposition of Damages in Furtherance of the Enforcement of Reservations, Restrictions, and Covenants of Sandia Heights Sandia Heights

The deed to each residential lot in the area in Bernalillo County, New Mexico known as Sandia Heights Development (“Sandia Heights”) contains reservations, restrictions, and covenants (collectively “Covenants”). The Covenants establish a general plan for the “improvement, development, and restriction of the property,” and all lots and portions of lots in the subdivision are subject to the general plan. The Covenants are “for the benefit of each and every subsequent owner of any portion of the land” in the Sandia Heights. The Covenants run with the land and remain in effect until changed by a three-quarters majority of the residential lots within each unit of Sandia Heights.

The Sandia Heights Homeowners Association (“Association”) was created to promote the common interests and welfare of its members of record located in Sandia Heights and to administer and enforce covenants, including those relating to the architectural appearance of Sandia Heights.

An Architectural Control Committee (“ACC”) was established by the Covenants of each of the units that comprise Sandia Heights. The ACC reviews and approves all potential construction, reconstruction, and improvements in the subdivision, including minimum size, location of structures on each lot, and appearance.

The ACC has the final authority to disapprove any plans, specifications, or details if:

- they are not in accord with all the provisions of the declaration;
- a design or color scheme in the proposed structure is not in harmony with the general surroundings of such lot or the adjacent structure; the structure
- unduly interferes with the view from nearby residences; the plans and specifications submitted are incomplete; or
- the committee deems the plans and specifications contrary to the spirit and intent of the restrictive covenants, or contrary to the interest and the welfare and rights of all or any part of a unit within the subdivision.

No building or improvement of any kind may be constructed or placed upon any lot in Sandia Heights without the prior written consent of the ACC.

A Covenant Support Committee (“CSC”) exists to investigate and resolve covenant violations, and to enforce the Covenants as written. The CSC has responsibility for covenant violations not expressly reserved to the ACC.

Covenants for which the CSC provides primary oversight include those pertaining to:

- improper renting of rooms within a residence;
- any trade, offensive activity, annoyance, or nuisance;
- boats, house trailers, and temporary residences;
- domestic animals;
- garbage, trash, rubbish, and noxious materials
- unshaded floodlights.

Covenant violations coming to the attention of the CSC involving the exterior appearance of homes, structures, and landscaping are referred to the ACC for resolution.

Covenant violations, if uncorrected, constitute damage to Sandia Heights, the lot owners, and residents. Violations interfere with the harmony of Sandia Heights, and the ability of other lot owners to enjoy the use of their own lots. Violations also result in additional expenses to the Association in the form of legal fees and court costs that might be avoided if an alternative to litigation is available; fees and costs that ultimately fall onto the other residents in Sandia Heights.

The severity of the damage depends on the nature of the Covenant violation, and its duration. The Association has established the following schedule of damages to be assessed against any lot owner allowing uncorrected Covenant violations. The schedule of damages is intended to provide a level of collective recompense when no other measure of actual damages can be readily ascertained. The schedule of damages ultimately seeks to preserve the integrity of Sandia Heights and its Covenants. It is not intended to be a penalty, nor to be punitive in nature. The Association, through its committees, retains the discretion to assess larger or lesser amounts of damages depending upon the specific circumstances of any particular violation.

No assessment for damages will be made until notice of the uncorrected violation has been given to the lot owner, and a reasonable amount of time allowed for its correction. In establishing a reasonable amount of time for correction the responsible committee shall consider the complexity of the project and the steps necessary to correct the violation.

Each lot owner shall be provided written notice and given the opportunity to dispute any alleged violation. The lot owner may dispute the violation in writing or at a hearing before the committee involved, provided that the lot owner receives notice a minimum of 14 days before the hearing or submission deadline.

Unpaid assessments for damages will result in a lien on the property in question until the covenant violation has been corrected and all assessments paid or otherwise resolved. (47-16-6-B NMSA 1978)

Damages Assessment Schedule

Architectural Control Committee:

| | |
|--|----------------|
| Exterior color | \$100 per week |
| Exterior trim | \$50 per week |
| Non-conforming roofs or roof material | \$100 per week |
| Roof trim | \$50 per week |
| Non-conforming walls and fences | \$50 per week |
| Non-conforming landscaping | \$50 per week |
| Set-back and easement violations | \$100 per week |
| Unauthorized structures | \$100 per week |
| Non-conforming solar collectors | \$50 per week |
| Failure to timely complete projects once begun | |
| New construction and additions | \$100 per week |
| Painting, stucco, and trim | \$50 per week |
| Window replacement | \$50 per week |

Covenant Control Committee:

| | |
|--|----------------|
| Improper renting or leasing of rooms within a residence; | \$150 per week |
| Any trade, offensive activity, annoyance, or nuisance; | \$150 per week |
| Boats, house trailers, and temporary residences; | \$100 per week |
| Unauthorized domestic animals; | \$50 per week |
| Garbage, trash, rubbish, and noxious materials; | \$25 per week |
| Unshaded floodlights | \$25 per week |

This plan forms a part of the Community Documents of the Association as that term is defined in Section 47-16-2-G (NMSA 1978), shall be published with all other Community Documents of the Association, and thus be made available to all lot owners.

Policy Adopted by the Sandia Heights Homeowners Association Board of Directors

Effective immediately.

Roger Hagengruber, President

Date: December 13, 2023