

**Hardwick Mountain Property Owners Association Annual Meeting  
June 1, 2023; 4:30 - 6:00pm  
Exchange Cafe**

**Attendees:**

Carl and Traci Prober  
Della Berry  
Anita Whitney  
Steve Hovanic  
Steve and Deb Harper  
Susan Jamme  
John and Vicki Barnhill  
Henry Winger  
Bonnie Cole  
Aaron Linderman  
Dave and Joyce Butterfield  
Sandy Haney  
Mark Knight

**Welcome:**

Acting President Carl Prober called meeting to order at 4:30pm. All ballots for board elections were collected. Carl took the opportunity to thank departing Board members, Susan Jamme and Steve Hovanic (in attendance) and Kai Dozier for their lengthy service on the board. Carl also recognized Treasurer John Barnhill for his continued productive efforts as treasurer as well as leading the time-consuming project of modernizing our restricted covenants.

**Attendee introductions**

**Board Election:**

Original candidates for the board were: John Barnhill (current board member), Marc Cole, Steve Harper and Peggi Knight; one shy of the 5-person board goal. Kai Dozier and Steve Hovanic resigned in April, and Susan Jamme and Carl Prober opted to not seek re-election.

Due to late notification, it was announced at the meeting that Peggi Knight was no longer able to serve on the board, however, Vicki Barnhill, Jeremy Cole and Dan Madru were willing to add their names as candidates. It was noted that Madru's primary residence is out of state and his time in Barbourville is limited. It was decided by the majority of attendees that the ballots would be returned to allow attendees to recast their votes and then tally at the end of the meeting.

Once the ballots were collected and tallied, the following five individuals were elected to serve on the Board:

John Barnhill  
Vicki Barnhill  
Jeremy Cole  
Marc Cole  
Steve Harper

The new board will gather in the coming weeks to determine who will fill specific positions (president, vice president, etc).

**Treasurer's Report:** (copy attached)

John Barnhill provided a quick review of the report that itemized expenses for the year totaling \$6,046.19. Since we did not conduct road maintenance or need snow plowing, expenses were reduced. Due to investment strategy that yielded approximately 3% return, coupled with annual assessments the HMPOA, as of May 31, 2023, the HMPOA balance is \$85,670.90 (updated post-meeting to \$85,675.03 based on actual May interest payments).

The primary anticipated expense for the near-term will be road maintenance - such as adding crusher run - to protect and preserve the quality of our roads.

No questions or discussion.

**Restrictive Covenants (RC) Modernization project:**

John Barnhill led the discussion and started with the justification for undertaking this project. Current RC is the original 50-year old document that is outdated and lacks clarity in terms and definitions that confuses homeowners and inhibits enforcement. The meeting represented the initial discussion to review the content and solicit feedback, comments and concerns from all homeowners.

Prior to delving into the proposed changes of the RC, John summarized the evolution of the new plat that will be filed with the county that accurately identifies the boundaries of the subdivision. There was discussion concerning the right-of-ways that allow access from the subdivision to Parcels A, B and C (40+ acres immediately to the east of the Hardwick Mountain subdivision that were originally planned by the developer as the final phase of the subdivision). The board has been investigating incorporating these parcels into the HMPOA, though the status of this investigation has not been finalized. Homeowners wanted to know what responsibilities regarding right-of-way establishment and maintenance are required of the association. The right-of-ways were legally deeded to the HMPOA several decades ago. The same deed provides access [with restrictions] to owners of parcels A, B, and C from Hardwick Mountain Drive [legal

consultation has confirmed this]. This issue requires further resolution and the board will provide a definitive answer to the Association prior to further steps.

Currently, parcels A, B and C are not considered part of the subdivision and the owner does not wish to have the HMPOA vote to officially incorporate them. It was noted there are development restrictions on these lots, so while they can be developed, the deeds for these properties will limit what can be done. It was also noted that access requirements for these parcels are being recommended for incorporation into the RC to avoid future ambiguity.

**Restrictive Covenants:** John went through the document paragraph by paragraph noting the changes and soliciting comments. The following highlights proposed changes that resulted in discussion, action required on behalf of the board and/or areas of concern.

Page 1: Revised text establishes the subdivision as it currently stands today with the new plat that will be filed with the county.

Page 2/para A: Defined “professional purposes” within the context of what type of residential dwellings can be used within a professional/business setting. Added: “Proliferation of large commercial equipment is limited to 15,000 pounds; this is to protect the roads.

Page 2/para C (I) The process for structural changes or additions has changed (primarily removal of developer language), but not the requirements.

para D: Change clarifies that trailers, tents, may not be used as long-term residences or storage facilities. This elicited discussion about using a trailer, RV or other type of self-contained temporary residence during active construction on a site. Majority of attendees agreed that there should be some allowance for such use, perhaps 90 days or less, or require property owner to submit waiver to the board for a temporary residence during construction. Board will consider the issue, seek additional input as necessary, and respond.

Page 4/ para E: Although no change in the document, John called an audible regarding the set-back for the right-of-way requirement. The current RC states a 60-foot setback is required, however due to the configuration of some lots, this could be quite limiting, so it was proposed to have our RC match current Orange county requirement for Zone A that is 35-feet. Board will research issue to make sure we understand the Orange County requirement and provide further information to the Association.

Para F: A sentence discussing drainage easements in the original RC will likely be deleted because it references easements “shown on the plat of survey of the subdivision” that are not actually on the plats. New language in the proposed amendment specifies that property owners must maintain the flow/drainage of water; it is not expected that homeowners will keep drainage areas pristine, only that blockages that impact the flow will be removed. Homeowners are not to modify the flow of water.

Para I: Rules and regulations are subordinate to RC. Clarifies the hierarchy of HMPOA governing documents. The RC are the primary governing document, then the by-laws and then rules and regulations.

Para J: New paragraph. Short term rentals - AirBNB, VBRO, etc, defined as 30-days or less are not allowed. Although majority of those present were in general agreement that there should be restriction on short term rentals, there was discussion on the definition of short term. One property owner advocated one year, believing that background checks will eliminate some of the undesired behavior (but this is a landlord decision not a requirement), while some wanted to allow for flexibility for seasonal rentals. 30-days or less provides maximum flexibility while significantly limiting high volume rentals that would result in road wear, noise, litter, trespassing, etc. Board will discuss the feedback received and provide additional information on this proposal.

Para K: Clarifies that the current lots in the Hardwick Mountain subdivision are deemed to be in compliance of the RC’s 3-acre minimum size requirement. This was inserted because new technology used to verify lot boundaries (for development, sale, etc) may result in future surveys falling slightly under the 3-acre minimum.

Para M: Addresses the right-of-way to Parcels A, B, and C issue as discussed previously. The language in this paragraph is designed to protect the association to ensure that adjacent property owners using HMPOA roads for access are subject to certain restrictions and required to pay an assessment to assist with road maintenance. Parcel owner, in this case, the owner of lots A, B and C, is responsible to build and maintain the roads from HMPOA to their property. Board will clarify what part of access/right-of-way is part of the HMPOA and what financial/maintenance falls to the HMPOA.

Para N: Second audible regarding 5-person board requirement. John inquired whether we should consider reducing number of board members since we seem to have to beg for volunteers and what happens if we don’t get the needed 5 people. Some thought three was too small, some thought an even number was not good for voting purposes. This issue is considered closed for now.

Tangent discussion on voting procedures. It was recognized that we have two different voting procedures. For board elections, there is one vote per each lot owner, that means if someone owns 2 lots they get two votes. Voting for the new RC would be one vote per HMPOA member. This means no matter how many lots you own, you get one vote. It was suggested that the voting procedures follow the one HMPOA member one vote protocol for all Association votes. This can be considered if/when HMPOA Bylaws are revised.

Para P: This section deals with enforcement and language was added that should legal or other enforcement actions be required to force compliance, should the board prevail, the homeowner would be required to pay all board expenses.

Para S: new paragraph at the suggestion of the attorney to ensure that this is an enduring document.

RC conclusions: Based on attendee input, assuming agreement on clarifications brought up during discussion, for those present at the meeting, there is nothing in the document that would preclude a "yes" vote to adopt the revisions.

NEXT STEPS: New board will gather to discuss comments and incorporate changes and then circulate again to the HMPOA for review and any final comment and then submit the RC for formal vote.

### **Meeting Conclusion:**

With no other business to be addressed, Acting President Carl Prober called meeting closed at 6:05pm.