

HIDDEN VALLEY VILLAGE OWNERS ASSOCIATION

Board of Directors Meeting

AGENDA

Date of Meeting: January 17, 2023

Time: From 6:00pm to 7:30pm

Location: Hidden Valley Manager's Office via zoom

ZOOM

<https://us06web.zoom.us/j/83821079607?pwd=RIU5ZHdFb0x1ajY4NIRQdVN4V0Zydz09>

Meeting ID: 838 2107 9607

Passcode: 664356

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Hidden Valley Office: 760 934-7303 Email: manager@hiddenvalleymammoth.com

1. General

- A.** Call to order by President Jim Murphy
- B.** Roll call. Record Board Members, Management, owners, and guests present
- C.** Announcements/Orders of the day/Items discussed in Executive Sessions
- D.** Any items pulled from the consent agenda to be heard special, changes to order of agenda and recusals.
- E.** Homeowner Forum: 15 minutes (Comments on Agenda or Non-Agenda Items)
****Homeowners are also encouraged to submit comments and suggestions to the board via email at bod@hiddenvalleymammoth.com*

2. Approval of Minutes from November 21, 2022

3. Consent Agenda Items

- A.** Update on IDR demand by Unit owners
- B.** Treasurers Reviews for October, November and December 2022
- C.** Informational Report on T-Bill investments
- D.** Informational Report on Hidden Valley Operating Rule 7-Pets

4. Agenda Item 1 Ratification of Oct., Nov., Dec. Treasurers Reviews. Discussion and Possible Action on T-Bill Investments

5. Agenda Item 2 Major Capital Expense Projects for 2023 and Contract Approvals. Follow up on Committee formation for some projects.

6. Agenda Item 3 Discussion and Possible Action Pet Rule

7. Agenda Item 4-Warning Letters for unit owners who are not notifying management of occupancy.

8. Agenda Item 5-Monthly letter to Homeowners.

9. Management Report

10. Announcements: Future Meeting Dates:

March 21, 2023 6:00 PM

May 16, 2023 6:00 PM

July 18, 2023 6:00 PM

September 19, 2023 6:00 PM

November 18, 2023 9:00 AM

Annual Meeting November 18, 2023 2:00 PM

11. Adjournment

HIDDEN VALLEY VILLAGE OWNERS ASSOCIATION

Board of Directors Meeting – Executive Session

AGENDA

Date of Meeting: January 17, 2023

Time: From 7:30 PM to 8:00 PM

Location: Hidden Valley Manager's Office via zoom

ZOOM

<https://us06web.zoom.us/j/83821079607?pwd=RIU5ZHdFb0x1ajY4NIRQdVN4V0Zydz09>

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1. General

- A. Call to order by President: Jim Murphy
- B. Roll call. Record Board Members & Management present

2. Possible Discussion/Action Items with Management Present

- A. Rule violations review and action-
- B. Disciplinary hearings-Hearing for second offense pet violation,
- C. Warnings and fines-Unpaid fine for one unit
- D. Individual unit owner issues-IDR follow up
- E. Review of contracts or proposals

3. Discussion Items Board Only

- A. Internal Board operational matters
- B. Management contract, compensation, or performance matters

4. Other

5. Adjournment

CONSENT AGENDA FOR JAN. 17, 2023 HVV REGULAR BOARD MEETING

- A. Update on IDR demand by Unit owners
- B. Treasurers Reviews for October, November and December 2022
- C. Informational Report on T-Bill investments
- D. Informational Report on Hidden Valley Operating Rule III Pets

A) Update on IDR demand by Unit owners: An Internal Dispute Resolution Meeting was demanded by 2 unit owners regarding separate \$125 fines. One for overcrowding and excessive parking for an STR Unit, the other for failure to notify management of occupancy. The IDR meeting was attended by the two owners, past President Tony Cole, and current President Jim Murphy on November 9, 2022. The complainants did not provide evidence to refute the violation charges, but they did voice several unrelated complaints regarding Hidden Valley Governing documents and rule enforcement issues. Jim Murphy brought all complaints from the owners to the board and has responded to the owners with two letters: One which addresses the original violations and one which addresses the extraneous complaints made by the owners. The attorney, Tim Sanford was consulted and the HOA has responded to the IDR demand correctly. A resolution of the issue of the \$125 fines assessed separately to the two owners was not accomplished at the meeting.

B) Treasurers Reviews for October, November and December: See reviews posted on hiddenvalleymammoth.com website.

C) Informational Report on T-Bill investments:

Background:

1). We have substantial reserve funds (~\$624k) building up that are not keeping up with inflation.

2). We have invested funds in CD's in the past, which can be limited in terms of competitive rates offered, early withdrawal penalties and FDIC investment limits (\$250k per bank). CD's are considered a safe investment, but are only protected by the bank's viability and FDIC insurance.

3) Treasury bills are guaranteed by the full faith and credit of the United States. Current 6 month T-bills pay about a 4.6% annualized rate (as of 12-15-22).

4) Treasury bills are available either through investment brokerage firms or Treasury Direct. While Treasury Direct is an option, they do not allow for early liquidation until after 45 days from investment date and then the security must be transferred to an investment brokerage firm in order to liquidate prior to maturity.

5) Investing in T-bills directly with an investment brokerage firm affords the maximum flexibility in terms of being able to convert to cash if needed. (if needed, 3-5 business days the funds are back in our HOA bank account).

6) Vanguard Marketing Corporation, Member FINRA and SIPC, is the second largest brokerage firm in the U.S. in terms of assets under management. Vanguard is an investor owned corporation and has staked their reputation on having the lowest fund management fees in the industry and investing long term in index funds (e.g. S&P 500).

7) Funds held at Vanguard are additionally guaranteed up to \$500k per account through

SIPC. (The brokerage firm equivalent to FDIC).

Actions Required:

1. Set up a corporate account at Vanguard. This involves submitting HOA corporate docs, authorized account users and the board minutes of this resolution to Vanguard so they can verify the legality of the HOA entity and authorized users of the account. (about 5 business days)
2. Authorized users are proposed to be the President, Treasurer and Nick Roberts. Cindy Buttner will have read only access to the account so she can easily do her financial statements. Each user will need to submit required paperwork (personally identifiable information for ID verification) to gain access.
3. Establish a direct link (ACH transfer capability) between our HOA bank account and the Vanguard investment account. This allows for quick (free) transfers back and forth.
4. Initially transfer \$400k to the investment account. Once funds are cleared at Vanguard (7 days), the funds can be invested in T-bills.
5. Nick Roberts will make the investments online. Maturities will be 1 year or less and be staggered in duration (example: 3 months, 6 months, 9 months, 1 year @ 100k each). T-bills do not pay interest, but are bought at a discount and mature at 100 cents on the dollar. Nick will endeavor to earn the most interest possible on T-bills, given the current interest rate environment and recent Fed actions that continue to raise short term rates. Nick will report back to the board with ongoing recommendations and reinvestment activities as the T-bills mature.

Why Nick?

Nick Roberts was a Series 7 registered representative at the investment firm Smith Barney for about 5 years (1980's and 90's). In addition, he was CMO at Acorns Grow Inc, which is an investment brokerage firm catering to new (mostly younger) investors to start investing with as little as \$5 via an innovative App. Nick currently has 2 investment accounts (IRA and Trust) at Vanguard and is currently investing in T-bills as well, so this is familiar territory. (I use my online calendar to set reminders when T-bills mature and it takes me 2 minutes to reinvest funds online).

Proposed Motions to be presented at the Jan. 17, 2023 regular board meeting.

Motion one: Move to invest \$400,000 of reserve funds in short-term treasury bills (T-bills) at Vanguard.

Motion two: Appoint authorized users to be the President, Treasurer and Board member Nick Roberts. Accountant, Cindy Buttner will have read-only access to the account.

D) Informational Report on Hidden Valley Operating Rule III Pets:

History and Reasoning for Developing a Fair and Reasonable Pet Rule:

Our pet policy was adopted in 2022 after a notification that updates for CA law regarding service animals (SB468) affected HOA's; the notification recommended that HOA's update pet rules.

In 2021 a CC&R change that would allow Short term rental units to rent to pets failed to

pass. A Board action to suspend the enforcement of no pets in STR units in 2021, resulted in a summer of pet related complaints. As a result of this the board concluded that restrictions of "No pets in Short Term rental units" as stated in our CC&R's was generally supported by the majority of owners and must be enforced. This led to the updating of the Pet restrictions in our Operating Rules to assure that they were fair, reasonable and in compliance with, local, state and Federal law.

The updated rule was Drafted by a committee consisting of President Frank Ohrmund, Manager Karen House and Board member Ruth Wheeler. The Draft was finalized and submitted to the board by Frank Ohrmund as reviewed by the HOA attorney, Tim Sanford, at a cost to the HOA of \$945. The updated rule was submitted to all owners for a 30 day review and subsequently adopted by the board. Homeowners Mathew Desario and Kinoka Ogsbury, as owners of 5% of the units at Hidden Valley, petitioned the board to reverse the rule based on the requirement that 48 hour advance notification of service dogs in STR rentals by unit owners was not reasonable. Mathew also voiced concerns that the rule violated Federal Statutes regarding ADA and HUD. The Board worked with Mathew and Kinoka and provided documentation which clarifies ADA and HUD requirements regarding pets and service animals. The Board re-wrote the rule to change the two day advance notice of service animals in units to require owners of units to inform management of service dogs in their units any time prior to the guests arrival with their service animal. The modified rule was submitted to all owners for a 30 day review and then adopted by the Board.

Legal Review:

As is usual in any HOA 100% consensus on rules and restrictions is rare. Most Recently, two homeowners have made statements that our rules contradict Federal Statutes regarding ADA and HUD. A recent statement made to Board Members Jim Murphy and Tony Cole by a unit owner was "that his attorney has told him the board's requirement for proof that an animal is a service animal is illegal. This statement has not been substantiated by a communication from his attorney and the HOA does not require proof that an animal is a service animal. Regardless of whether the statement is true or false the Board feels compelled to do its due diligence to verify that our pet rule is fair, reasonable and does not contradict local, state, or federal statutes. This has caused more legal expenses for the HOA.

SB468, a California law which was passed unanimously by the state legislative branch in September, 2021 clarifies regulations for representing and misrepresenting service animals. The text of the law can be viewed at https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB468

Attorneys who are not familiar with SB 468 may not be aware of the recent regulations regarding pets. Our attorney, Tim Sanford was aware of SB 468 when he evaluated our pet rule.

An item of concern for Unit Owners centers around the forms that we use to protect the HOA from instances of miscommunication between disabled service dog handlers, management and other homeowners.

The information below sites information from both ADA and HUD federal government sites the links to the sites are included with the data:

The Board is not requiring proof that an animal is a service animal. It requires a Service

Animal form signed by both the person being assisted by the service animal and the renting owner. According to the HOA attorney, and to Information that can be found at <https://www.ada.gov/resources/service-animals-faqs/> it is permissible to follow this protocol for "General Rules:

"Q7. What questions can a covered entity's employees ask to determine if a dog is a service animal? Answer: A. In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform?"

We do not ask what the person's disability is. We ask "Service Dog Name and description (color, size Breed)" this is to make sure that if another guest or owner reports a problem animal to the property manager they can clearly identify the animal and inform the complaining party that it is a service animal without having to confront the person with a disability.

The required Service Animal form is in compliance with the HUD Best Practices Document issued January 28, 2020 <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>. This document states: "Persons with disabilities may also want to keep a copy of their reasonable accommodation requests and supporting documentation in case there is a later dispute about when or whether a reasonable accommodation request was made. Likewise, housing providers may find it helpful to have a consistently maintained list of reasonable accommodation requests."

The HVV Service Dog form is designed to protect both the HOA and the renting unit owner from possible claims of discrimination by those individuals who use service animals. It allows our management team to correctly identify service animals when they are present at Hidden Valley and prevents miscommunications to the service animal owner from both management and other owners. These miscommunications might cause embarrassment and possible legal action from the disabled owner of the service animal.

It's important to note that we are not discriminating against anyone with service animals. In fact, there is no "official service animal registry." We are simply asking ANYONE with an allowable pet to fill out the form so management knows how to answer questions they get when someone says, "I thought pets weren't allowed here."

Management has accepted and used the service dog form for a trained service dog last summer. The guest was positive regarding our policy. It has been our experience so far, that anyone with a true service animal will not have an issue. Owners and management companies just need to say, "yes you can stay with a service animal, we just need you to fill out this form so management knows there is a reasonable accommodation being made and the no pet rule for short term rentals specified in our CC&R's is being waived for the disabled guest with a service animal.

The Form is not asking them to prove the pet is a service animal. There's no way to officially verify that. The form is simply asking the 2 allowable questions which are: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform?

Board Action:

President Jim Murphy initiated a second review from Attorney Tim Sanford in December

2022 at an additional cost of about \$500 to address Mathews' most recent challenge to the rule.

A synopsis of Tim Sanford's opinion is:

- our attempt to make the pet rule organized and enforceable is the correct approach.
- our service dog form is enforceable and within legal limits
- The information drawn from SB468 is all accurate. However, care must be taken that nothing is construed to restrict or change existing federal and state law related to a person's rights for reasonable accommodation and equal access to housing.
- Tim referenced case law (Auburn Woods-2004) which deals with the need for documentation from medical professionals for people with emotional/psychological disabilities who are requesting reasonable accommodation for a pet in an STR

<https://www.davis-stirling.com/HOME/Case-Law/Auburn-Woods-v-FEHC>.

This is a brief overview of the case. The more complete info can be found in the above link: There is case law (Auburn Woods-2004) Which gives Emotional Support animals privileges similar to service animals when it comes to housing. However it is unclear if this relates to short-term housing. The catch is that Emotional Support animal owners must prove, via a doctor's certification, that they have an emotional/psychological disability. This places the burden on unit owners in the position of requesting personal medical information from prospective renters, only if the prospective renter is stating that they should be allowed a reasonable accommodation to suspend the no pets in STR units for their support animal. Tim suggested a separate verification form for this would be an option.

Related Research Facts

-This is a section of the NO pet rule at 1849 Condos located at Canyon Lodge.

1849 Condominiums

NO PETS POLICY

We DO NOT allow any species of pets. A penalty of \$1000 and eviction will be enacted with no refund.

1849 Mountain Rentals does have service pet units available upon request for properly documented service pets as **defined by the Americans with Disabilities Act**. Service pets must be approved when the reservation is made. Emotional support animals are not permitted. Guests with pets on the property that have not been approved by the front desk will be subject to penalty and eviction with no refund.

-Information from Jim Murphy regarding Service Animals at the SD Wild Animal Park:

I volunteer time at the San Diego Zoological Society and discovered they don't allow pets into the zoo or Safari Park. However they do allow Service Animals.

Guests wanting to bring service animals are required to fill out a form! The form identifies the breed of the animal (they allow dogs & miniature horses!), but no other types of animal. The zoo employee asks 'Does this animal provide a service to an individual with a disability (who is present)?'

The employee must then fill out the 'Guest response (verbatim)'.

The zoo employees then walk the guest through a series of rules (pet relief stations, restricted areas, sensitive areas), plus some additional guidelines about their animals behavior and the behavior of zoo animals reacting to the service animal. The guest is then given a bandana that the service animal must wear while in the facilities.

I would believe that an organization in California the size of the San Diego Zoo has vetted the form and the questions. I do not see any difference between what we are asking and what they are asking. We both ask for information on the breed. We ask for other identifying information instead of requiring the animal to wear a bandana.