

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met virtually via Google Meet on June 3, 2021, at 9:30 a.m. Board staff was present at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, Richmond, Virginia 23233. The meeting was held virtually due to the current public health emergency related to COVID-19 declared by the Governor, which made it impracticable or unsafe for the Board to assemble in a single location. The purpose of meeting was to discuss or transact business statutorily required or necessary to continue operations of the Board.

The following members were present:

Drew Mulhare, Chair
Maureen Baker
Jim Foley
Eileen M. Greenberg
Amanda Jonas
David S. Mercer, Vice-Chair
Lori Overholt
Anne M. Sheehan
Scott Sterling
Katherine Waddell

DPOR staff present for all or part of the meeting included:

Mary Broz-Vaughan, Director
Trisha L. Lindsey, Executive Director
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Heather Gillespie, Common Interest Community Ombudsman
Tanya M. Pettus, Administrative Assistant

Joshua Laws, Assistant Attorney General with the Office of the Attorney General, was present.

Mr. Mulhare, Chair, called the meeting to order at 9:30 a.m. Ms. Lindsey **Call to Order** took roll of Board members and advised those in attendance at the meeting of staff present.

Ms. Lindsey advised the Board of procedures in place for conducting the **Announcements** meeting virtually.

Ms. Lindsey introduced to the Board newly appointed Board member **Introduction of New Board Member** Eileen Greenberg, who will serve as a citizen serving on an association board, the seat vacated by Tom Burrell.

Ms. Jonas moved to approve the agenda as presented. Mr. Foley seconded the motion which was unanimously approved by: Baker, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

Approval of Agenda

Ms. Jonas moved to approve the March 4, 2021, Board meeting minutes as presented. Ms. Overholt seconded the motion which was approved by: Baker, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell. Ms. Greenberg abstained as she did not attend the March meeting.

Approval of Minutes

The Board reviewed a written comment from Joe Littleton, who expressed his concern over the number of statutory and regulatory changes that have affected common interest communities over the last 15 years, specifically the effects of these changes on smaller, self-managed associations.

Public Comment Period

Ms. Lindsey advised the Board that Ken Lion was in attendance at the meeting. Mr. Lion submitted a written comment regarding reserve study guidelines that Ms. Lindsey advised would be reviewed and discussed later in the meeting.

Dan Catlett was present to address the Board. Mr. Catlett expressed his disappointment that the Board voted to find his management company in violation of a Board regulation [File Number 2019-00655] at its March 4, 2021, Board meeting. Mr. Catlett stated he feels the finding of the violation was not based on evidence or material fact, and that this violation had not been discussed during the informal fact finding conference on this matter. Mr. Catlett thanked the Board for their service and consideration, and asked that the Board reconsider the finding and find no violation in this matter.

Mr. Haughwout provided an update on the current status of the regulatory review processes for the Board's regulatory packages:

Update on Regulatory Actions

Final amendments to the CIC Management Information Fund Regulations are currently undergoing Executive Branch review, after which a final 30-day public comment period will be held, prior to becoming effective.

The Board authorized the filing of a Notice of Intended Regulatory Action (NOIRA) and the formation of a regulatory review committee for a general review of the CIC Manager Regulations at its March 4, 2021,

Board meeting. The NOIRA is in development and the committee is being formed.

The amended guidance document regarding the distribution of time-share public offering statements authorized by the Board at its March 4, 2021, Board meeting has been published. The guidance document was made available for a 30-day public comment period. No public comments were received. The amended guidance document is now effective.

Ms. Lindsey presented the Board with two draft legislative proposals to be submitted for consideration during the 2022 General Assembly session. Ms. Lindsey reminded the Board that due to COVID-19, there were no legislative proposals submitted for the 2021 General Assembly session, and that the legislative proposals before the Board had been carried over from the previous year. In addition, the Board was reminded about previous discussions regarding the possibility of amending § 54.1-2349.B.2, which pertains to the powers and duties of the CIC Board. Specifically, this provision authorizes the Real Estate Board to enforce Chapter 23.3 of Title 54.1 of the Code of Virginia (Common Interest Communities act) for a real estate broker, salesperson, or brokerage firm that is licensed by the Real Estate Board and is also licensed as a common interest community manager.

**2022 Legislative
Items for
Consideration**

After review of the draft legislative items, Mr. Foley moved to approve the proposals for submission as presented. Ms. Sheehan seconded the motion which was unanimously approved by: Baker, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

Ms. Gillespie provided the Board with a summary of current complaint and file statistics as of May 28, 2021.

Ombudsman Report

The Board reviewed written comments submitted by Ken Lion, in which he stated that he disagrees with the cash-flow analysis method used in most reserve studies, and that the rate of inflation is not properly considered when conducting reserve studies. Mr. Lion also stated that he reviewed the Guidelines for the Development of Reserve Studies for Capital Components and feels the guidelines are not based on sound advice.

**Discussion of
Reserve Study
Guidelines**

Mr. Lion was present to address the Board and reiterated that he feels association members are required to pay for reserve studies that are not based on solid mathematics.

Ms. Lindsey advised the Board and Mr. Lion that the Board formed a committee to develop guidelines for reserve studies as required by legislation that was passed in 2019. The committee was composed of association members, reserve study specialists, and other financial experts and stakeholders.

Mr. Mulhare, who chaired the committee, stated that interest rates were discussed thoroughly by the committee in 2019, and after review of Mr. Lion's comments, stated that he does not recommend reconsidering the guidelines at this time. In addition, Mr. Mulhare and Ms. Lindsey reiterated that the Guidelines for the Development of Reserve Studies for Capital Components are not statute or regulation, and are simply guidelines for conducting reserve studies.

Ms. Lindsey advised the Board that the Governor's emergency declaration order (Executive Order 51) in response to COVID-19 will expire on June 30, 2021. Accordingly, all waivers authorized by the Director will also be expiring. Ms. Lindsey advised the Board of temporary waivers of certain regulations pursuant to Executive Order 51 in response to COVID-19, particularly the validity of licenses, certifications, registrations, and other authorizations issued by the Board that would otherwise (i) expire during the state of emergency and (ii) be eligible for renewal or reinstatement during the state of emergency under applicable regulations, will be extended until the 30th day after the date by which the state of emergency is lifted. The Department is working to communicate these updates to those who may be impacted. In addition, regulations that prohibit or limit online, electronic, or distance learning have also been waived until the 30th day after the date by which the state of emergency is lifted.

**DPOR Updates as it
Relates to COVID-
19 Response**

Ms. Henshaw advised the Board that in order to comply with public health emergency recommendations, the agency remains closed to the public and staff scheduling adjustments have been made, including telework for those employees who are eligible.

Mr. Mulhare commended the legal community for the way in which it navigated the pandemic by offering online training courses, thereby increasing attendance for continuing professional education courses.

Ms. Broz-Vaughan advised the Board that the expiration of Executive Order 51 also ends the department's authority to hold Board meetings without a quorum physically present in one location. Board meetings will be held in person beginning in July.

Ms. Lindsey provided the Board with the most recent financial statements. There have been no claims from the Recovery Fund.

Board Financial Statements

Board members considered the following resolution for former Board member Tom Burrell:

Consideration of Resolution for Service

Tom Burrell

WHEREAS, **Tom Burrell**, did faithfully and diligently serve the Common Interest Community Board from 2018 to 2021;

WHEREAS, **Tom Burrell**, did devote generously of his time, talent and leadership to the Board;

WHEREAS, **Tom Burrell**, did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Common Interest Community Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Common Interest Community Board this third day of June 2021, that **Tom Burrell** be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens;

and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

Ms. Waddell moved to adopt the resolution as written. Ms. Jonas seconded the motion which was unanimously approved by: Baker, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

Ms. Lindsey presented the Board with tentative Board meeting dates for 2022 for consideration. After review and discussion, Mr. Foley moved to accept the following meeting dates:

Consider 2022 Meeting Dates

- March 3, 2022
- June 9, 2022
- September 22, 2022
- December 8, 2022

Ms. Sheehan seconded the motion which was unanimously approved by: Baker, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

Discussion was held on whether a Board response to Mr. Catlett was required. Ms. Lindsey and Ms. Broz-Vaughan advised the Board that Mr. Catlett was provided communications on several occasions regarding the appropriate process for appeal pursuant to the Administrative Process Act. In addition, he had spoken directly with Board counsel regarding his due process rights in this matter.

Other Business

There being no further business, the meeting was adjourned at 10:41 a.m. **Adjourn**



Drew Mulhare, Chair

Mary Broz-Vaughan, Secretary

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Drew R. Mulhare
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 3, 2021

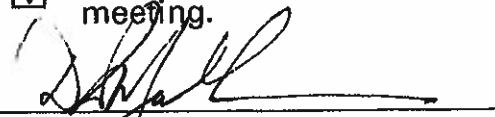
5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

- I am able to participate in this transaction fairly, objectively, and in the public interest.
- or**
- I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.



Signature

6/3/21

Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Maureen A. Baker
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 3, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Maureen A. Baker
Signature

6/3/2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Jim Foley
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 3, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

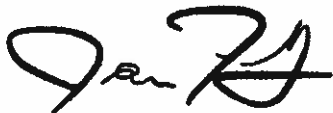
I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.



Signature

06/03/2021

Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Eileen Greenberg
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 3, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Eileen Greenberg
Signature

6/3/2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Amanda Jonas
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 3, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

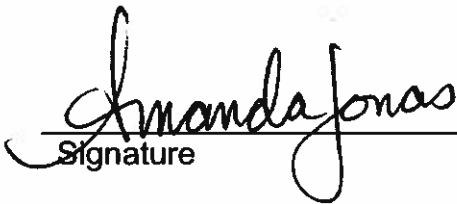
I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

I have no financial interest in any transactions taken at this meeting.


Signature

06.03.2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

- 1. Name: David Mercer
- 2. Title: Board Member
- 3. Agency: Common Interest Community Board
- 4. Meeting/IFF Date: Board Meeting June 3, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

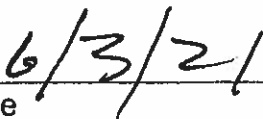
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.


Signature


Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Lori Overholt
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 3, 2021

5. I have a personal interest in the following transaction:

N/A

Nature of Personal Interest Affected by Transaction:

N/A

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

N/A

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.


Signature

6/3/2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Anne Sheehan
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 3, 2021

5. I have a personal interest in the following transaction:

NONE

Nature of Personal Interest Affected by Transaction:

N/A

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

N/A

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Anne Sheehan
Signature

6/3/2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Scott E. Sterling
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 3, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Scott E. Sterling
Signature

3 June 2021
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Katherine E. Waddell
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 3, 2021

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Katherine E Waddell
Signature

06/03/2021
Date