



2023 Annual Homeowner's Meeting

April 11th, 2023, 7PM – 9PM

Location: Edgewood Spring Creek Meridian (next to Dutch Bros)

AGENDA

Call to Order

Review and Approve of 2022 Board Meeting Minutes

Welcome and Introduction of Board

Financial Review and Approval

2023 Preview and Dues

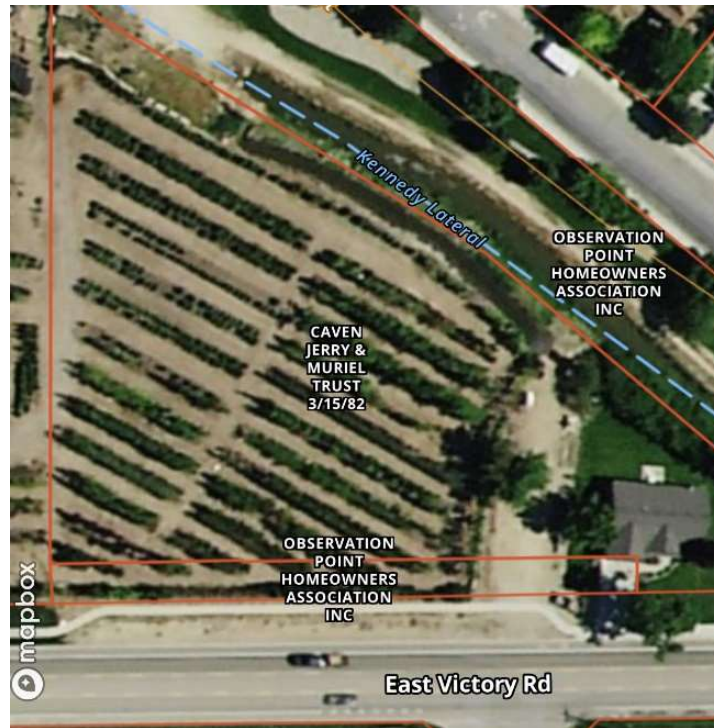
OLD BUSINESS

- 2022 Board Actions
 - New HOA Website observationpointhoa.com
 - Registration
 - Integrated with Facebook
 - Planned Improvements (Accepting payments electronically)
 - New HOA logo
 - LeBeau and Associates
 - Bookkeeping and Tax Preparation Services
 - Transition to DL Evans Bank completed.
 - Wired for Christmas lights
 - Update on Irrigation and Landscaping

- 714 Lake Creek St (House that burned)

- CCR Infractions and Enforcements
 - Past Due Account Recovery
 - Litigations/Costs/Updates

- 2022 CCR Amendment Clause Initiative Results
 - 33 Responses/Approvals (out of 83 homes)



- Lot 2 Purchased (where Victory Greens trees used to be)
 - Current plan is to develop as commercial space (not finalized)
 - Grantor rights were also included in transaction, which developer intends to rezone, replat, and change the restrictions for this lot.
 - Developer wishes to purchase **Lot 1** from the HOA
 - Initial offer of \$15K has been made to purchase Lot 1 from the HOA
 - Initial offer includes an additional amount of up to \$5K to cover Attorney's fees
 - Conversations also include transfer of Grantor Rights to HOA, ensure easement access to feeder ditch and pump house
 - Establishing dialogue with developer, attorneys, and Nampa Meridian Irrigation regarding all items relating to irrigation water (water delivery, access to water rights, points of diversion etc.)

NEW BUSINESS

- Solicit homeowner feedback on Lot 2 and 1 proposals
 - Discuss homeowner request to discuss options to block out new development with trees
Cathy Summers
- Yard Sale
Becky Wilson
- Discuss the proposed future amendment "Enforcement Procedures of the CC&Rs".
Brent Despain

PROPOSALS SUBMITTED TO AMEND HOA BYLAWS

Three proposals submitted (details for each at the end of this document).
Discussion, review, and voting in line with Idaho Code 30-30-709.

Ballot Item 1: Procedures for Enforcements of the CCRs

Kasper Larsen

Ballot Item 2: Vote to approve amendment titled "Set the size of the Board of Directors to five members"

Brent Despain

Ballot Item 3: Vote to approve amendment titled "Annual Meeting of the membership to occur in January or February"

Brent Despain

30-30-709. AMENDMENT OF BYLAWS BY DIRECTORS AND MEMBERS. (1)
Unless the articles or bylaws provide otherwise, an amendment to a corporation's bylaws to be adopted must be approved:

- (a) By a simple majority of the board;
- (b) By the members by a simple majority of the votes cast or a majority of the voting power, whichever is less; and
- (c) In writing by any person or persons whose approval is required by a provision of the articles authorized in section [30-30-801](#), Idaho Code.

(2) If the board initiates an amendment to the bylaws or board approval is required to adopt an amendment to the bylaws, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other basis.

(3) If the board or the members seek to have the amendment approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in writing in accordance with section [30-30-505](#), Idaho Code. The notice must also state that the purpose, or one (1) of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

(4) If the board or the members seek to have the amendment approved by the members by written consent or written ballot or absentee ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment.

ELECTIONS

ADJOURN

2023 Ballot

Ballots need to be received by April 11th, 2023.

They can be returned in person to a board member, via USPS, or emailed from your email address.

USPS Address: P.O. Box 153
Meridian, ID 83680

Email: board@observationpointmeridian.com

Board Members

Nominee	Volunteer/Nominated by
<input type="checkbox"/> Allie Mallard	Volunteer
<input type="checkbox"/> Kelly Winn	Volunteer
<input type="checkbox"/> Kris Kido	Volunteer
<input type="checkbox"/> Geoff Dalessio	Volunteer
<input type="checkbox"/> Toni Tisdale	Volunteer
<input type="checkbox"/> Kasper Larsen	Volunteer/Val Meikle
<input type="checkbox"/> Brent DeSpain	Val Meikle
<input type="checkbox"/> Aaron Flake	Brent DeSpain/David Gardner
<input type="checkbox"/> Charles Sierra	Brent DeSpain
<input type="checkbox"/> Tyler Birch	Brent DeSpain
<input type="checkbox"/> (write in) _____	
<input type="checkbox"/> (write in) _____	
<input type="checkbox"/> (write in) _____	
<input type="checkbox"/> (write in) _____	
<input type="checkbox"/> (write in) _____	

Your Name: _____

Property Address: _____

Email Address (optional): _____

Assign Proxy to (optional): _____

Signature: _____

AGENDA ITEM: BRENT DESPAIN

Enforcement Procedures of the CC&Rs

It is proposed to amend the CODE OF BY-LAWS OF OBSERVATION POINT HOMEOWNERS' ASSOCIATION, INC by adding the following language.

ARTICLE IX - ENFORCEMENT PROCEDURES OF THE COVENANTS, CONDITIONS AND RESTRICTIONS

- A. This Article describes the procedures and timing that the board shall take when enforcing the Covenants, Conditions and Restrictions (CC&Rs) of the association.
1. These procedures do not amend, remove, or restrict any rights provided in the CC&Rs.
 2. These procedures do not apply to the collection of assessments as described in Article VIII of the CC&Rs.
 3. The board shall keep records on all complaints and the transition of the complaints through the steps of these Procedures.
 4. The board shall not accept anonymous complaints.
 5. Repeat violations of the same section of the CC&Rs by the same member within 2 years of the last complaint will resume at the step of these Procedures where the previous complaint ended. The board shall send a letter to the offending member to inform them of the continuation of enforcement by these Procedures.
- B. Procedures.
1. When the board receives a complaint the board shall assess the validity of the complaint. If the complaint is valid the board will move to the next step. If the complaint is not valid the board will notify the complainant of its findings. The complaint is valid if all of the following are met:
 - i. The complainant is a member of the association and in good standing (up to date on assessments and membership rights have not been suspended).
 - ii. A majority of the board agrees the issue described in the complaint is a violation of the CC&Rs.
 2. The board shall provide one calendar week to give the complainant the option to discuss the issue with the offending member. The complaint shall move to the next step after one calendar week and the complainant has reported back to the board.
 3. The board shall send a letter to the offending member demanding immediate correction of the violation. If the violation is not corrected by the deadline stated in the letter then the complaint shall move to the next step. The letter shall include the following information.
 - i. A description of the violation.
 - ii. Quoted section from the CC&Rs that is being violated.

- iii. The deadline for compliance, which is at least 7 days from the expected postmark of the letter.
 - iv. Reference to Article IX of the CC&Rs and Article IX of the bylaws.
 4. The board shall send a second letter by personal service or certified mail to the offending member demanding immediate correction of the violation. The board shall vote to impose a monthly disciplinary monetary penalty of 1/3 of the annual assessment, if the board vote passed
by a majority the letter will include notice of the disciplinary monetary penalty. The hearing committee shall have the authority to adjust the monthly disciplinary monetary penalty (per CC&Rs ARTICLE IX SECTION 3.c.2), with the new value not to exceed 1/2 of the annual assessment monthly. If the violation is not corrected by the deadline stated in the letter the complaint shall move to the next step. The letter shall include the following information.
 - i. A description of the violation.
 - ii. Quoted section from the CC&Rs that is being violated.
 - iii. If approved by the board the notice that a monthly disciplinary monetary penalty of 1/3 of the annual assessment will be levied after the deadline until the violation is corrected.
 - iv. An invitation to a hearing per CC&R ARTICLE IX SECTION 3.c.1
 - v. The deadline for compliance, which is at least 30 days from the expected postmark of the letter or 5 days after the proposed hearing, whichever is later. vi.
Reference to Article IX of the CC&Rs and Article IX of the bylaws.
5. The hearing committee shall meet with or without the offending member. If the hearing committee did not adjust the monthly disciplinary monetary penalty the complaint shall move to the next step. If the hearing committee adjusts the monthly disciplinary monetary penalty the board shall vote to approve the disciplinary monetary penalty and if the vote passed by a majority shall send a letter to inform the offending member of the adjusted monthly disciplinary monetary penalty. After the letter is sent the complaint shall move to the next step.
6. The board shall vote to file a lawsuit to enforce the CC&Rs violation. If the board vote passes by a majority, the board shall call a Special Meeting of the membership for the express purpose for the membership to vote and approve a lawsuit against the offending member. If the membership vote passes by a majority, the board shall be authorized to file a lawsuit to enforce the CC&R violation.

BALLOT ITEM 1: SUBMITTED BY KASPER LARSEN

Procedures for Enforcement of the CC&Rs

It is proposed to amend the CODE OF BY-LAWS OF OBSERVATION POINT HOMEOWNERS' ASSOCIATION, INC., by adding the following language.

ARTICLE IX - ENFORCEMENT PROCEDURES

A. General Provisions.

1. This Article describes the procedures and timing that the board shall take when enforcing the Covenants, Conditions and Restrictions (CC&Rs) of the association.
2. These procedures do not amend, remove, or restrict any rights provided in the CC&Rs.
3. These procedures shall not apply to the collection of assessments, as described in Article VIII of the CC&Rs.
4. The board shall keep records of all complaints and the transition of the complaints through the steps of these Procedures. These records shall be available to all members upon request but no more than once per month per member.
5. The board shall not accept anonymous complaints.
6. No board member shall conduct any business or issue any communication relating to the enforcement of CCRs without the awareness or inclusion of all board members.
7. A second (or subsequent) violation of the same section of the CC&Rs by the same member, within 2 years of the date on which the Board deemed the last complaint valid, will resume at the step of these Required Procedures where the previous complaint ended, without being required to re-complete the earlier steps. The board shall send a letter to the offending member to inform them of the continuation of enforcement by these Procedures.

B. Required Procedures.

1. **Step One.** When the board receives a complaint, the board shall determine the validity of the complaint within 30 days. If a board member submits a complaint, they must recuse themselves from further participation in the HOA enforcement procedures. If the complaint is deemed valid, then the board may move the complaint to Step Two. If the complaint is deemed unfounded, or if the board chooses not to enforce, the board will notify the complainant of its findings, and the process ends. The complaint is valid only if all of the following requirements are met:
 - a. The complainant is a member of the association and in good standing (up to date on assessments and membership rights have not been suspended).
 - b. The identity of the complainant is known to the entire board.

- c. A majority of the board members agrees the conduct or condition(s) alleged in the complaint is a violation of the CC&Rs based on the information and/or evidence provided by the complainant. The complainant has the burden to prove the violation to the board, the board is under no obligation to conduct an investigation of their own. In case of inadequate or deficient information or evidence, the board shall provide feedback to the complainant and request that the deficiencies be cured or, if not cured, inform the complainant that enforcement will not be pursued.
2. **Step Two.** Upon determining that a complaint is valid, the board shall provide one calendar week to give the complainant the option to discuss and resolve the issue with the offending member. The board may move the complaint to Step Three after one calendar week and the complainant has reported back to the board with the outcome of the discussion. If no discussion is had and/or the complainant does not report back to the board, the board may decide whether to proceed with enforcement based on the information at hand.
 3. **Step Three.** The board shall send a letter to the offending member demanding immediate correction of the violation. The letter shall include the following information:
 - a. A description of the violation.
 - b. Quoted section from the CC&Rs that is being violated.
 - c. The reasonable deadline for compliance, which is at least 15 days from the expected postmark of the letter.
 - d. Reference to Article IX of the CC&Rs and Article IX of the bylaws.

If the violation is not corrected and/or still ongoing by the deadline stated in the letter, the board may move the complaint to Step Four. The violating party has the burden to prove the violation has been corrected and is no longer ongoing.

4. **Step Four.** The entire board shall vote whether to impose a monthly disciplinary monetary penalty up to 1/3 of the annual assessment amount until the violation is stopped and corrected. The board shall send a second letter by personal service or certified mail to the offending member demanding immediate correction of the violation. If the board vote passed by a majority of the entire board the letter will include notice of the disciplinary monetary penalty and a hearing with the entire board acting as the hearing committee, and the offending members shall be called. The letter addressed to the offending members shall include, at a minimum, the following information.
 - a. A description of the violation.
 - b. Quoted section from the CC&Rs that is being violated.
 - c. If approved by the board, notice that a monthly disciplinary monetary penalty of up to 1/3 of the annual assessment will be levied if the violation is not stopped and corrected prior to the deadline for compliance established by the board, pursuant to this section.

- d. An invitation to a hearing per CC&R ARTICLE IX SECTION 3.c.1 If agreed by all parties the hearing can be virtual.
- e. The deadline for compliance, which must be at least 30 days from the date on which the letter is mailed (as proven by its postmark or other evidence) and no less than 5 days after the proposed hearing, whichever is later.
- f. Reference to Article IX of the CC&Rs and Article IX of the bylaws.

If the violation is not stopped and corrected by the deadline stated in the letter the board may move the complaint to Step Five.

- 5. **Step Five.** The board, acting as the hearing committee, shall meet with or without the offending member at the appointed date to decide disciplinary action. In case of continued violation and/or lack of correcting the violation by the offending member, the hearing committee shall have the authority to adjust the monthly disciplinary monetary penalty (per CC&Rs ARTICLE IX SECTION 3.c.2) with the penalty not to exceed 1/2 of the annual assessment fined monthly.

Any change in the amount of the monthly disciplinary monetary penalty requires a majority vote of the entire board. If a change in the penalty is approved by the board's vote, the board shall send a letter to inform the offending member of the adjusted amount of the monthly disciplinary monetary penalty.

In the event of continued violation and/or lack of correcting the violation by the offending member the board may move to Step Six.

- 6. **Step Six.** If the violation is not corrected within the deadline established by the board in Step Four, above, then the board may decide, by a majority vote of the entire board, whether to recommend filing a lawsuit on behalf of the association to enforce the CC&Rs and correct the violation. If the board vote passes the board shall call a Special Meeting of the membership for the express purpose of giving the membership an opportunity to vote on the issue of authorizing the HOA and the board to file a lawsuit against the offending member. If the membership vote passes by a majority of the votes cast, including proxy votes presented at the special meeting to the board, the board shall be authorized to file a lawsuit to enforce the CC&R violation and attempt to collect attorney fees from the offending member
- 7. **Step Seven.** If, at any time after the lawsuit is filed, the offending member proves that the violation has ceased and has been corrected, and if the offending member offers to pay the HOA attorney fees accrued up to that point to hold the HOA membership harmless, then the board shall discontinue the enforcement action and settle any pending lawsuits. For any other offer of settlement, the board is authorized to negotiate settlements with the offending member at the board's discretion, but the board is not obligated to settle unless the offending member corrects and discontinues the violation and pays the HOA attorney fees up to that point.

Article X - Bylaw Amendment Procedure

- A. Pursuant to applicable Idaho Title 30-30-709, the bylaws of the HOA can only be changed or amended by the membership by a simple majority of the votes cast, including proxy votes presented at

the vote, in a special membership meeting called for that purpose, or by a majority of the voting power, whichever is less.

BALLOT ITEM 2: SUBMITTED BY BRENT DESPAIN

Set the size of the Board of Directors to five members

It is proposed to amend the CODE OF BY-LAWS OF OBSERVATION POINT HOMEOWNERS' ASSOCIATION, INC, Article III Sections A and D:

Existing language for reference: ~~Strikethrough for emphasis only and denote removed language.~~

A. Number and Qualifications. The number of directors of this corporation shall be ~~determined from time to time in the manner set forth in the Articles of Incorporation~~ but must be at least three members at all times.

D. Vacancies. Vacancies in the board of directors resulting from death, resignation, or removal from office of a directors, shall be filled by a ~~majority vote of the remaining directors~~, any person so appointed to fill a vacancy shall serve until the next annual membership meeting, and until his or her successor has been duly elected and qualified.

The following language will amend and replace the above quoted Section:

Bold Italics for emphasis only and denote added language.

A. Number and Qualifications. The number of directors of this corporation shall be ***five*** but must be at least three members at all times.

D. Vacancies. Vacancies in the board of directors resulting from death, resignation, or removal from office of a directors, shall be filled by a ***Special Meeting of the membership. Within 60 days of the board vacancy, the board of directors shall hold a Special Meeting for the express purpose of electing a new board member to fill the vacancy.*** Any person so elected to fill a vacancy shall serve until the next annual membership meeting, and until their successor has been duly elected and qualified. ***A Special Meeting of the membership to fill the vacancy shall be optional if the vacancy occurs within 120 days of the next upcoming Annual Meeting of the membership.***

BALLOT ITEM 3: SUBMITTED BY BRENT DESPAIN

Annual Meeting of the membership to occur in January or February

It is proposed to amend the CODE OF BY-LAWS OF OBSERVATION POINT HOMEOWNERS' ASSOCIATION, INC, Article II Sections B:

Existing language for reference: (no language removed)

B. Annual Meeting: An annual membership meeting shall be held on the second Monday of the month of January during each calendar year unless the board of directors shall fix a different date. The place of the meeting shall be at the principal business office of the corporation unless the board of directors shall fix a different place. Written notice of the time and place of the annual membership meeting shall be given to each member, by regular United States Mail at the last address of such member as shown on the books and records of the corporation, not less than ten (10) days prior to the date of such meeting. The notice of the meeting shall include a statement of the purpose of the meeting, as set forth in the request for the meeting. The necessity for written notice of the meeting may be waived by unanimous consent of all members.

The following language will amend and replace the above quoted Section:

Bold Italics for emphasis only and denote added language.

B. Annual Meeting: An annual membership meeting shall be held on the second Monday of the month of January during each calendar year unless the board of directors shall fix a different date ***between the first day of January and the last day of February***. The place of the meeting shall be at the principal business office of the corporation unless the board of directors shall fix a different place. Written notice of the time and place of the annual membership meeting shall be given to each member, by regular United States Mail at the last address of such member as shown on the books and records of the corporation, not less than ten (10) days prior to the date of such meeting. The notice of the meeting shall include a statement of the purpose of the meeting, as set forth in the request for the meeting. The necessity for written notice of the meeting may be waived by unanimous consent of all members.