

**MINUTES OF EPCSA BOARD OF DIRECTORS MEETING
JANUARY 9, 2015**

Board Members present: Jim Fassett (President), Pat Jackunas (Vice President), William Schiller (Secretary), Jill McIntosh, and Terry Schultz.

President Fassett called the meeting to order at 9:00 a.m.

Approval of December Board meeting minutes: The Board unanimously approved the minutes of the meeting of December 9, 2014 without corrections. Jill McIntosh's analysis of annual Association assessments for various Northside Santa Fe neighborhoods (as presented at the December 9, 2014 Board meeting) will be attached to the approved set of minutes.

Treasurer's Report (Jim Fassett): The Board had received a copy of the EPCSA Financial report for the period January 1 to December 31, 2014 from A.L. Bontrager. The total EPCSA expenditures for 2014 amounted to less than had been budgeted and as a result \$9,000 in excess funds from 2014 will be carried over into 2015.

Clubhouse Manager's Report (Connie Burke): There are no significant issues at the Clubhouse. Reyes Morales will soon remove the holiday lights from the Clubhouse. The electrical outlet for the lights is located on the clubhouse roof. Joan Conrow will take over as clubhouse manager starting February 1, 2015. Connie Burke and she will work together for the remainder of January and into February to ensure a smooth transition. Clubhouse documents, keys, key-cards, etc. currently in Connie Burke's possession will be transferred to Joan Conrow.

ARB Chairman Report (William Schiller): Chairman Schiller stated that the ARB had performed two positive inspections of completed projects and that he had completed the paperwork for refunding the performance deposits. The ARB is trying to resolve problems caused by a structure erected in the La Viveza neighborhood subdivision without ARB approval. The ARB has inspected the structure and found two problems that need to be remedied. The owner's proposals are currently under ARB consideration.

President Fassett has received emails about a pending home sale in the Los Altos subdivision. The buyer and the buyer's attorney have requested documentation showing that the ARB approved the home after its construction was completed by L & L Development in 2002. Dr. Schiller indicated that the ARB does not normally provide such documents for sales of existing homes since the ARB evaluates all new homes after construction is complete and notifies the builder and owner regarding approval. The ARB's policy is that it does not revisit or re-evaluate previously approved projects. The relevant ARB records are probably available in the locked record closet at the clubhouse but may not be easy to locate. The Board recommended that the original builder of the home, John LeMaster, should be approached by the buyer to provide a copy of the approval document he had received from the ARB after a final inspection of the home was performed in 2002.

Settlement Agreement for the Lawton lawsuit: President Fassett indicated that a Settlement Agreement had been signed by the various parties involved in the Lawton lawsuit. However, he

did not intend to make the Settlement Agreement available to owners currently. The final step in the settlement process is pending. The cottonwood tree and the tree stump at the Schwartz's residence have been removed completely in compliance with the terms of the agreement. After completion of that step, the Settlement Agreement calls for the attorneys representing the parties to promptly submit to the Judge a Stipulated Order of Dismissal With Prejudice to which all the parties and their respective attorneys have already agreed since the Stipulated Order was attached as an Exhibit to the Settlement Agreement. The Judge's signature on the Order will end the lawsuit. Also, in compliance with the terms of the Settlement Agreement, the Plaintiff in the case, Mary Lawton, has agreed not to further challenge the validity or enforceability of the Sommer amendment of the Estancia Primera covenants. After the Judge has signed the Dismissal Order both the Order and the Settlement Agreement will become part of the EPCSA records. As such, they will be made available to homeowners on request.

Homeowners Comments: Plaintiff Mary Lawton indicated that she had succeeded in getting seven cottonwood trees removed after four years of litigation and that this had restored her views. She regretted, however, that view rights in Estancia Primera have been permanently eliminated by the Sommer amendment of the Estancia Primera Covenants.

Old Business: There was none.

New Business: There was none.

Adjournment: The meeting was adjourned at 9:12 a.m. by a unanimous vote of the Board members.

MINUTES OF EPCSA BOARD OF DIRECTORS MEETING
MINUTES
FEBRUARY 13, 2015

Board Members present: Jim Fassett (President), Pat Jackunas (Vice President), William Schiller (Secretary), Jill McIntosh, and Terry Schultz.

President Fassett called the meeting to order at 9:04 a.m.

Approval of December Board meeting minutes: The Board unanimously approved the minutes of the meeting of January 9, 2015 without corrections.

1. **Treasurer's Report** (Jim Fassett): The Board had received a set of EPCSA Financial documents from A.L. Bontrager. About \$9,000 had been transferred from the 2014 budget to the 2015 budget and will be placed in the Capital Reserve account.
2. **Clubhouse Manager's Report** (Jim Fassett): President Fassett introduced, Joan Conrow, the new Clubhouse manager. Ms. Conrow had only been in the position for a brief period and could therefore not provide a report. There will be a transition from Connie Burke to Ms. Conrow starting this month. Joan is already doing the scheduling of clubhouse reservations and the EPCSA website has been changed accordingly to show that she should be contacted for reservations in the future.
3. **ARB Chairman Report** (William Schiller): There are a couple of ongoing projects. One ARB project is in the process of being formulated for submission.
4. **Settlement Agreement for the Lawton lawsuit**: President Fassett indicated that he had prepared a summary document of the events leading to the final dismissal with prejudice of the Lawton lawsuit by Judge Francis Mathew of the First District Court. He desired the Board's approval to attach the summary document, a copy of the Settlement Agreement of December 18, 2014 and a copy of the Judge's Stipulated Order of Dismissal with Prejudice of January 9, 2015 to the minutes of this meeting and for these documents to be posted on the EPCSA web site. President Fassett outlined the events in the lawsuit (see attached document, *Summary of Lawton Lawsuit – Lawton v. Schwartz et al.*). Several homeowners had inquired about the details of the Settlement Agreement (see attached Settlement Agreement and Judge's Dismissal Order). He noted that plaintiff Lawton had agreed that the Sommer amendment of the EPCSA Restrictive Covenants shall remain in full force and effect and that she would abandon all claims that the amendment is invalid or unenforceable. She also covenanted not to sue any party to the lawsuit or any EPCSA officers or directors in an effort to challenge,

invalidate or modify the Sommer amendment. A motion, duly made and seconded for all three documents to be attached to the minutes and to be posted on the EPCSA website was approved unanimously.

5. Snow Removal Arrangements for Estancia Primera and neighborhood subdivisions:

President Fassett indicated that the EPCSA has a contract with Jonathan Ballew of Ballew, Inc., for snow removal. Under the existing arrangement, snow plowing is triggered when there is a snowfall of 6" – 7". Avenida Primera is plowed and the Clubhouse parking lot is also cleared of snow. Additionally, special attention is paid to the two Estancia Primera entries where salting is sometimes required. In the fall of 2014, the outgoing Clubhouse Manager, Connie Burke, had emailed the Presidents of all nine neighborhood subdivisions asking whether they wished to have their streets plowed by Jonathan Ballew when she called him to plow Avenida Primera.

Ms. Burke had reported to the Board that only the Cresta and Los Altos subdivisions had replied that they wished to be added to the EPCSA contract with Ballew, Inc. It had been made clear to neighborhoods joining the EPCSA contract that plowing of their streets would occur only if the EPCSA decided that snow removal was needed. Also, neighborhood subdivisions would be responsible for paying Ballew, Inc., directly for any work done in their neighborhoods.

President Fassett indicated that there had been problems with some neighborhood subdivisions. Some owners in neighborhood subdivisions that had been added to the EPCSA contract did not understand that snow plowing occurred only if there was an accumulation of 6-7 inches and had complained about inadequate snow plowing. He therefore proposed that the contract for snow removal be limited to the EPCSA and that all nine neighborhood subdivisions should make their own private arrangements for snow removal. A motion to this effect having been duly made and seconded failed with four Directors voting against the Motion. The Board agreed to defer further consideration of this matter until the March Board meeting. However, Board members generally felt that if neighborhood subdivisions were added at their request to the EPCSA contract for snow removal that the following conditions should apply:

- Any concerns or complaints by residents of such subdivisions about snow removal must be directed to the neighborhood subdivision homeowners association and not to the EPCSA. If supplemental snow removal is required, the neighborhood subdivision homeowners association would be responsible for making arrangements for such work without involving the EPCSA;
- The EPCSA would not be legally liable for any problems or property damage

associated with snow removal in neighborhood subdivisions. Such problems would have to be resolved between the contractor and the Homeowners Association involved.

The Board also discussed the removal of snow and ice on the concrete sidewalk along Avenida Primera. A City Ordinance places the responsibility for doing this on the owner of the property adjacent to the sidewalk. In Estancia Primera most of the concrete sidewalk along Avenida Primera is adjacent to privately owned lots and its maintenance is therefore the responsibility of these owners. A small percentage of the sidewalk is adjacent to common property of neighborhood subdivisions. In such instances, the Homeowners Association for the subdivision is responsible for sidewalk maintenance. The EPCSA is responsible for maintaining only the concrete sidewalk adjacent to the Clubhouse. The Board noted that many part-year homeowners had failed to maintain the adjacent concrete sidewalk free of snow and ice thereby creating potentially dangerous conditions for pedestrians.

An area of sidewalk between the south end of Los Nidos and La Viveza is apparently not being maintained by anyone. The general opinion among Board members, however, was that it would be undesirable for the EPCSA to undertake snow and ice clearance on the concrete sidewalk throughout Estancia Primera. This would involve an assumption of legal liability and would have the potential of involving the EPCSA in litigation should anyone sustain an injury. Additionally, the cost of this was likely to be high and had not been allowed for in the 2015 budget. The Board decided to defer further consideration of this matter until the March Board meeting.

6. **Old Business:** There was none.

7. **New Business:** Terry Schultz reported that an owner had asked her to address the following points with the Board:

- ***Cracks in asphalt on Avenida Primera near a street light adjacent to the Estancia Primera south entry.*** The Board agreed that repair of street cracks was the City's responsibility. The clubhouse manager should contact the City about this.
- ***Street sweeping:*** Any Board member or individual owner may call the City to get this done.
- ***Small volunteer cottonwood trees near south Estancia Primera entry.*** A couple of small cottonwood trees had grown in this area. The Board agreed that these were most likely on private property in Los Altos Norte and that their management was the responsibility of the property owner or owners involved.

8. **Adjournment:** The meeting was adjourned at 9:47 a.m. by a unanimous vote of the Board members.

Executive Session of Board: The Board reconvened at 9:50 a.m. in Executive Session to discuss a personnel matter. The session was adjourned at 9:58 a.m.

ATTACHMENT I, EPCSA BOARD MEETING MINUTES OF FEBRUARY 13, 2015

ESTANCIA PRIMERA BOARD OF DIRECTORS MEETING – FEBRUARY 13, 2015 SUMMARY OF LAWTON LAWSUIT– LAWTON v. SCHWARTZ ET AL.

- In September 2010 a majority of EP lot owners approved an amendment of Section 6.18 of EPCSA's Restrictive Covenants (the Sommer amendment). This amendment was filed in the Santa Fe County Clerk's office in April 2011. It deleted the word "view" from Section 6.18, thereby removing view protections and obligations to preserve views that existed in the original covenants.
- On December 20, 2010, plaintiff Lawton sued Estancia Primera (EP) lot owners Richard and Jane Schwartz, Errol Levine, Jill Meyer, Barbara and James Johnstone, and Allan and Harriet Raff in the First District Court. She alleged that these defendants had violated Section 6.18 of the EP Declaration of Covenants by maintaining trees on their lots that interfered with her western views.
- In late 2013 Barbara Johnstone, and in early 2014 the Ruffs, settled with the plaintiff. (They had already removed all allegedly offending trees from their lots.)
- On May 12, 2014, plaintiff Lawton filed a Second Amended Complaint in First District Court that included Richard and Jane Schwartz, Jill Meyer, and Errol Levine as individual defendants and added the EPCSA as a new defendant. This complaint asked the Court for a Declaratory Judgment that the Sommer amendment was invalid and unenforceable and requested that the court order removal of several trees on the individual defendants' lots.
- On August 28, 2014 EPCSA's attorney (provided by EPCSA's insurer) filed a Motion (in which the individual defendants joined) asking the Court to dismiss the plaintiff's lawsuit *for lack of joinder of persons needed for just adjudication*.
- On October 22, 2014, at a hearing on this motion, the Court ordered Plaintiff's lawsuit dismissed without prejudice unless she named as parties all lot owners in Estancia Primera within 60 days of the date of the Court's Order.
- The Court agreed with the defendants that the plaintiff's lawsuit was defective because all EP lot owners would have been affected by a declaration about the validity of the Sommer amendment and she had failed to make these owners parties to the litigation as New Mexico law requires.
- After this ruling, plaintiff Lawton through her attorney approached the individual defendants and the EPCSA and with a view to settling the lawsuit. All parties agreed to settle and a Settlement Agreement was signed on December 18, 2014. **[Attachment II below]**
- On January 9, 2015, Judge Francis Mathew signed a *Stipulated Order of Dismissal with Prejudice* which ended the lawsuit. **[Attachment III below]**

In brief, the Settlement Agreement referred to above called for the following:

- Removal of the Schwartz's cottonwood tree at plaintiff's expense (completed on January 8, 2015). The agreement requires that no replacement tree that might grow to more than 16 feet in height at full maturity be planted at that site.
- The Schwartzes, Errol Levine, and Jill Meyer will never be required to trim, cut, or remove any other trees on their respective lots (including, but not limited to, an Austrian pine on the Schwartz lot and cottonwood trees on the Levine and Meyer lots).
- Plaintiff Lawton agreed that the Sommer amendment of our Restrictive Covenants shall remain in full force and effect and that she would abandon all claims that the Sommer amendment is invalid or unenforceable. She also covenanted not to sue any party to the lawsuit or any EPCSA officers or directors in an effort to challenge, invalidate or modify the Sommer amendment.

ATTACHMENT II, EPCSA BOARD MEETING MINUTES OF FEBRUARY 13, 2015

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Mary R. Lawton ("Lawton"), Richard Schwartz and Jane Schwartz (the "Schwartzes"), Errol Levine, individually and as trustee of the Errol Levine Revocable Trust ("Levine"), Jill Meyer ("Meyer") and the Estancia Primera Community Services Association ("EPCSA") effective as of the date and time a party hereto last executes this Agreement as indicated beside the Parties' signatures below, which date shall serve as the effective date of this Agreement. Lawton, the Schwartzes, Levine, Meyer and the EPCSA are referred to herein as the "Parties."

RECITALS

A. Lawton is the owner of the real property in the City and County of Santa Fe, New Mexico located at 609 Cumbre Vista Drive and shown as Lot 16 on that certain Plat of Survey Entitled Amended Cumbre Vista, filed for record as Document Number 738,299, in Plat Book 222, page 048, records of Santa Fe County, New Mexico.

B. The Schwartzes are the owners of the real property in the City and County of Santa Fe, New Mexico located at 569 Avenida Primera South and shown as Lot 24 on that certain Amended Survey Plat for Kachina Hills Subdivision, filed for record as document number 892,930, in Plat Book 295, page 35, records of Santa Fe County, New Mexico (the "Schwartz Lot").

C. Levine, individually and as trustee of the Errol Levine Revocable Trust, is the owner of the real property located at 508 Los Nidos in Santa Fe, New Mexico and shown as Lot 3 on that certain Subdivision Plat of Los Nidos Subdivision, filed for record as document number 884,712, in Plat Book 290, pages 014-015, records of Santa Fe County, New Mexico (the "Levine Lot").

D. Meyer is the owner of the real property located at 512 Los Nidos in Santa Fe, New Mexico and shown as Lot 4 on that certain Subdivision Plat of Los Nidos Subdivision, filed for record as document number 884,712, in Plat Book 290, pages 014-015, records of Santa Fe County, New Mexico (the "Meyer Lot").

E. The EPCSA is a New Mexico non-profit corporation and serves as the homeowners' association for the Estancia Primera subdivision (the "Subdivision") in the City and County of Santa Fe, New Mexico.

F. Lawton, as plaintiff, and the Schwartzes, Levine, Meyer and the EPCSA, as defendants, are parties to that certain lawsuit (the "Lawsuit") pending in the First Judicial District Court, County of Santa Fe, New Mexico as action number D-0101-CV-201004332.

G. The Parties wish to completely settle and resolve the Lawsuit and all of the claims asserted or that could have been asserted therein with respect to the subject matter of the Lawsuit, in accordance with the terms and provisions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree and covenant as follows:

1. Removal of Schwartz Cottonwood Tree. On or before January 13, 2015, the cottonwood tree upon the Schwartz Lot (the "Schwartz Cottonwood Tree") shall be removed in accordance with this Section 1. The Schwartz Cottonwood Tree, including the stump of said tree, shall be permanently and completely removed and in such a manner that no further growth or re-growth of the Schwartz Cottonwood Tree will occur. Lawton shall be responsible for making all necessary arrangements to engage a tree cutting service to accomplish the foregoing; provided, however, that the tree cutting service will be subject to the Schwartz's prior approval, which approval will not be unreasonably withheld. Lawton and Schwartz agree that Coates Tree Service is an acceptable tree cutting service to remove the Schwartz Cottonwood Tree, although Lawton may engage another tree cutting service, subject to the Schwartzes' approval, in the event that Coates Tree Service is unable, unwilling or unavailable to remove the Schwartz Tree within the time required by this Section 1. Lawton shall notify the Schwartzes of the date and time when the tree removal is scheduled. The Schwartzes require that either they personally, or their designated representative(s), be present on the Schwartz Lot during the tree removal. Lawton shall pay all costs for the removal of the Schwartz Cottonwood Tree in accordance with this Section 1.

2. Approval to Remove Schwartz Cottonwood Tree. No approval is required from the EPCSA or the Estancia Primera Architectural Review Board for the removal of the Schwartz Cottonwood Tree. The Schwartzes have obtained written approval from the Kachina Hills architectural board permitting the removal of the Schwartz Cottonwood Tree, a copy of which approval is attached hereto as Exhibit A.

3. Replacement Tree. Should the Schwartzes desire to plant a tree or other vegetation in the same location as the Schwartz Cottonwood Tree after its removal, any such tree or vegetation ("Replacement Vegetation") will be planted at the Schwartzes' expense and shall be of a type and variety that will not grow to a height at maturity exceeding sixteen (16) feet measured from the existing grade at the base of the trunk of such Replacement Vegetation.

4. Trimming or Removal of Other Trees. Except for the removal of the Schwartz Cottonwood Tree in accordance with Section 1 above, neither the Schwartzes, Levine nor Meyer shall be required, either currently or at any time in the future, to trim, cut or remove any trees upon their respective lots, including, but not limited to, the Austrian pine tree on the Schwartz Lot, and the cottonwood trees on the Levine and Meyer Lots.

5. Sommer Amendment. The Amendment to the Declaration of Covenants and Restrictions for the Estancia Primera Community recorded as instrument no.1633525, in the records of Santa Fe County, New Mexico, commonly referred to as the Sommer Amendment, and the amendment to Section 6.18 of the restrictive covenants for the Subdivision contained in said instrument (inclusively the "Sommer Amendment"), shall remain in full force and effect, and Lawton (for herself and for each person or entity claiming for, by or through her, including but not limited to, each of her insurers, attorneys,

trustees, heirs, successors, administrators, agents and assigns) hereby: (i) releases, waives and foregoes all claims that the Sommer Amendment is invalid or unenforceable or that it does not apply or has not in the past applied fully to the Schwartz Lot, the Levine Lot and/or Meyer Lot, and (ii) covenants not to sue any Party, any directors, trustees, officers, managers, employees, predecessors, insurers, attorneys, heirs, successors, administrators, agents and assigns of any Party, or any third party in an effort to challenge, invalidate or modify the Sommer Amendment.

6. Dismissal of Lawsuit. Simultaneously with the execution of this Agreement, the parties, through their attorneys, shall execute a Stipulated Order of Dismissal with Prejudice in the form attached hereto as Exhibit B ("Order"). The attorney for the Schwartzes, Levine and Meyer shall retain the original Order and will file the Order promptly after the removal of the Schwartz Cottonwood Tree in accordance with Section 1 above. The parties shall each pay for their own attorney's fees, costs and expenses incurred in connection with the Lawsuit.

7. Release of Claims. The following release of claims shall take effect upon the removal of the Schwartz Cottonwood Tree in accordance with Section 1 above: For and in consideration of the matters set forth herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, Lawton, on the one hand, and Levine, Meyer, the Schwartzes and the EPCSA, on the other hand, for each of himself, herself or itself, and for each person or entity claiming for, by or through him or her or it, including, but not limited to, each of his, her or its respective current and former directors, trustees, current and former officers, managers, employees, predecessors, insurers, attorneys, heirs, successors, administrators, agents and assigns, hereby releases and forever discharges and covenants not to sue each other and their respective current and former directors, trustees, current and former officers, managers, employees, predecessors, insurers, attorneys,, heirs, successors, administrators, agents and assigns, from any and all causes of action, claims, demands, damages, costs, losses, expenses, compensation, third party actions, consequential damages, punitive damages, exemplary damages, special damages, suits at law or equity, including claims for contribution and/or indemnity, of whatever kind or nature, whether known or unknown, existing as of the effective date of this Agreement regarding or arising from any matter alleged or claimed in the Lawsuit, or which could have been alleged or claimed in the Lawsuit with respect to matters at issue therein, including but not limited to, the trees on the Schwartz Lot, the trees on the Levine Lot, the trees on the Meyer Lot, Lawton's efforts and actions to seek and obtain the trimming or removal of such trees and her actions and efforts to challenge the validity of the Sommer Amendment; provided, however, this release of claims shall not in any manner constitute or be construed to constitute a release of or bar to any claim by any of the Parties for the breach or enforcement of this Agreement.

8. Joint Announcement. Upon the dismissal of the Lawsuit, the EPCSA shall send the following message by email to all of its members: "Please be advised that the parties to the lawsuit involving the trees and views in Estancia Primera have reached a mutually acceptable settlement and that the lawsuit has been dismissed. This message is being sent on behalf of all of the parties to the lawsuit."

9. No Admission of Liability; Voluntary Consent. The Parties agree that this settlement does not constitute and shall not be construed to constitute an admission of liability or of the validity of any claims made in the lawsuit on the part of the Parties. The

Parties also agree and acknowledge that they have entered into this Agreement voluntarily based upon their own informed consent and after consultation with their respective attorneys.

10. Attorney's Fees. The prevailing party in any action for the breach or enforcement of this Agreement shall be entitled to recover its reasonable attorney's fees and costs from the non-prevailing party.

11. Recitals. Each and all of the recitals set forth at the beginning of this instrument are hereby incorporated herein by this reference.

12. Captions. The captions and section headings of this Agreement are not necessarily descriptive, or intended or represented to be descriptive, of all the provisions thereunder, and in no manner shall such captions and section headings be deemed or interpreted to limit the provisions of this Agreement.

13. Severability. If any provisions of this Agreement, or the application of such provisions to any person or circumstances, shall be held invalid, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

15. No Waiver of Violation; Breach. No covenant contained in this Agreement shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.

16. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and any other prior agreements between the Parties, written or oral, are merged herein.

17. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors and assigns, current and former officers and directors including, but not limited to, any persons or entities to whom the Schwartz Lot, the Levine Lot or the Meyer Lot may be conveyed.

18. Counterparts and Electronic Delivery. This Agreement may be executed in one or more counterparts, which when taken together, shall constitute one and the same original. Copies of this Agreement and any counterparts signed by any of the Parties that are delivered by facsimile or electronic transmission shall be valid and binding upon each signatory party.

19. Execution Date. In order for this Agreement to take effect and constitute a binding and enforceable contract, this Agreement must be fully executed by all of the Parties on or before December 18, 2014 and a copy of the fully executed Agreement (or counterparts signed by all of the Parties) must be delivered by email to counsel for Lawton (Frank Herdman) at fth@santafelawgroup.com on or before December 18, 2014.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth next to their signatures below.

Date: December 18, 2014

Mary R. Lawton
MARY R. LAWTON

Date: _____

RICHARD SCHWARTZ

Date: _____

JANE SCHWARTZ

Date: _____

ERROL LEVINE,
individually and as trustee of
the Errol Levine revocable trust

Date: _____

JILL MEYER

ESTANCIA PRIMERA COMMUNITY
SERVICES ASSOCIATION

By _____

Name: James Fassett
Title: President, EPCSA

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth next to their signatures below.

Date: _____

MARY R. LAWTON

Date: Dec 18, 2014

Richard W. Schwartz
RICHARD SCHWARTZ

Date: Dec. 18, 2014

Jane E. Schwartz
JANE SCHWARTZ

Date: Dec. 18, 2014

Errol Levine, Trustee.
ERROL LEVINE,
individually and as trustee of
the Errol Levine revocable trust

Date: Dec. 18, 2014

Jill Meyer
JILL MEYER

ESTANCIA PRIMERA COMMUNITY
SERVICES ASSOCIATION

Dec. 18, 2014

By

James Fassett
Name: James Fassett
Title: President, EPCSA

EXHIBIT A TO SETTLEMENT AGREEMENT



Kachina Hills Owners Association Inc.
721 West Manhattan Ave.
Santa Fe, New Mexico 87501

December 17, 2014

Richard and Jane Schwartz
569 Avenida Primera South
Santa Fe, New Mexico 87501
Via: E Mail: rjschwartz1080@yahoo.com

Dear Mr. and Mrs. Schwartz,

This letter will confirm that the Architectural Board for the Kachina Hills Homeowners Association, Inc. has approved the removal of the cottonwood tree from the northeast corner of your lot at 569 Avenida Primera South in Estancia Primera. This approval is given in the context of the pending Settlement Agreement referenced in your letter dated December 16, 2014 requesting approval to remove the tree. This approval does not require you to remove the tree should circumstances change.

Sincerely,

A handwritten signature in black ink that reads "Jim Hays". The signature is fluid and cursive, with the first name "Jim" and last name "Hays" clearly legible.

Jim Hays
Chairman, Architectural Board
KHOA, Inc.

Cc William Schiller, Chair EPCSA ARB
Jim Fassett, President EPCSA

ATTACHMENT III, EPCSA BOARD MEETING MINUTES OF FEBRUARY 13, 2015

FILED IN THE OFFICE
DISTRICT COURT CLERK
1/9/2015 2:29:15 PM
STEPHEN T. PACHECO
Maureen Naranjo

FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF SANTA FE

MARY LAWTON,

Plaintiff,

v.

No. D-101-CV-201004332

RICHARD SCHWARTZ, JANE SCHWARTZ,
ERROL LEVINE, JILL MEYER, and
ESTANCIA PRIMERA COMMUNITY SERVICES ASSOCIATION,
A New Mexico non-profit corporation,

Defendants.

STIPULATED ORDER OF DISMISSAL WITH PREJUDICE

Upon the stipulation of Plaintiff Mary Lawton and Defendants Richard Schwartz, Jane Schwartz, Errol Levine, Jill Meyer and the Estancia Primera Community Services Association, by and through their undersigned attorneys and pursuant to the settlement agreement by and among the foregoing parties,

IT IS HEREBY ORDERED that this action, including all claims asserted herein by Plaintiff, be and hereby is dismissed with prejudice. The parties shall bear their own attorney's fees and costs incurred in connection with the action.



HONORABLE FRANCIS J. MATHEW
District Judge

KATZ AHERN HERDMAN & MACGILLIVRAY PC

Attorneys for Plaintiff Mary Lawton

LONG, KOMER & ASSOCIATES PA

*Attorneys for Defendants Richard Schwartz and
Jane Schwartz, Errol Levine, Jill Meyer*

ARLAND & ASSOCIATES, LLC

*Attorneys for Defendant Estancia Primera
Community Services Association*

Minutes of EPCSA Board of Directors Meeting Minutes April 10, 2015

Board Members present: Pat Jackunas (Vice-President), William Schiller (Secretary), A.L. Bontrager (Treasurer), Jill McIntosh, and Carol Genebach.

Vice-President Jackunas called the meeting to order at 9:01 a.m.

1. **Approval of February Board meeting minutes:** The Board unanimously approved the minutes of the meeting of February 13, 2015 without corrections. These minutes include three attachments relating to the dismissal of the Lawton lawsuit against the EPCSA as had been approved by the Board at its February 13, 2015 meeting.
2. **Treasurer's Report (A.L. Bontrager):** The Board had received a set of EPCSA Financial documents from A.L. Bontrager. There had not been much activity over the preceding three months. The EPCSA had, however, spent \$1,417 on snow removal on Avenida Primera and at the clubhouse this year to date. The Capital Reserve fund is currently at \$96,410. There are two or three EP homeowners whose annual dues remain fully or partially outstanding.
3. **Clubhouse Manager's Report (Joan Conrow):** Ms. Conrow reported that the transition of responsibilities from the former clubhouse manager, Connie Burke, to her was now complete. Ms. Conrow reported that she had attended to the following matters:
 - ◆ A large pothole on Avenida Primera has been repaired by the City;
 - ◆ The kitchen faucet has been repaired and repairs have been done in the men's change room;
 - ◆ Reyes Morales has done some maintenance trimming in the beds at the clubhouse;
 - ◆ Critter Control has taken care of a problem with pack rats at the clubhouse and the company has resumed its regular maintenance program;
 - ◆ Preparations are being made for the opening of the pool;
 - ◆ Bids will be obtained for tile repairs in the bathrooms. The Board discussed whether only the damaged tiles should be repaired or whether all of the tiles need to be replaced. There was some concern that if only the damaged tiles are replaced or repaired the new tiles might not match those already present. Ms. Conrow will obtain bids for both options from two companies and will report back so that a decision about this matter might be taken.

The Board discussed the need to get Reyes Morales to put down weed barrier in the landscaped area around the tennis court to reduce the need for weed removal and maintenance around the clubhouse. There was no certainty as to whether or where this had been done previously. Pat Jackunas and A.L. Bontrager will inspect the area and will let Ms. Conrow know what further work needs to be done.

4. **ARB Chairman Report (William Schiller):** There have been several completions for which refunds of performance deposits have been authorized. There is one Appendix IV project in the process of being worked up for ARB review and Dr. Schiller will schedule an ARB meeting in the near future.
5. **Old Business:** There was none.
6. **New Business:** There was none.
7. **Adjournment:** The meeting was adjourned at 9:05 a.m. by a unanimous vote of the Board Members.

MINUTES OF EPCSA BOARD OF DIRECTORS MEETING
MINUTES
May 8, 2015

Board Members present: Jim Fassett (President), Pat Jackunas (Vice-President), William Schiller (Secretary), A.L. Bontrager (Treasurer), Jill McIntosh, Carol Genebach, Terry Schultz, and Barbara Chamberlin.

President Fassett called the meeting to order at 9:00 a.m.

Approval of April Board meeting minutes: The Board unanimously approved the minutes of the meeting of April 10, 2015 without corrections.

Appointment of Board member for Cresta neighborhood subdivision: After the resignation of Noel Rietman as the EPCSA Board member for Cresta, President Fassett received a letter from Ed Platte (President of the Cresta Homeowners Association) nominating Barbara Chamberlin as the Board member for Cresta. Upon a motion duly made and seconded, the Board voted unanimously to appoint Ms. Chamberlin as a Board member. She will serve until the August 2015 Annual EPCSA meeting and Board election.

Appointment of Cresta representative to the EPCSA Architectural Review Board: Noel Rietman had resigned as the Cresta representative on the Estancia Primera ARB and the Cresta neighborhood subdivision Board of Directors nominated Richard Czoski as the Cresta representative on the EP ARB. The Board voted unanimously to approve Mr. Czoski's appointment to the ARB for a three-year term.

Treasurer's Report (A.L. Bontrager): The Board received a set of EPCSA Financial documents from A.L. Bontrager including the Balance sheet and the Profit and Loss Statement. There was not been much activity over the preceding three months. Money will, however, be spent for opening up the pool and various maintenance projects at the clubhouse. The latter include repair of water damage and tile replacement in the clubhouse bathrooms.

Clubhouse Manager's Report (Joan Conrow): Ms. Conrow reported that there had been a long-term water leak in the women's bathroom that had rotted the drywall and warped the door. This is all now being repaired and after the work is complete the bathroom will be ADA compliant. All missing and loose tiles in both bathrooms will also be replaced. The contractor has promised that the work will be complete by May 20. The cost of the project is \$8,650, however EPCSA's insurer will reimburse EPCSA \$4,640 of the repair costs. The contractor has also put in a bid to strip and reseal the floors in the clubhouse and proposes that this be done by him after the bathroom repairs are complete. The floors have been waxed in the past and apparently this should not have been done. The floor stripping and reseal cost estimate was about \$1,400. The Board unanimously approved that stripping and resealing of the clubhouse floors be done as part of the current clubhouse repair project.

The contractor also provided a low-bid estimate of \$3,200 for repainting the clubhouse interior and repairing cracks in the drywall. The Board agreed to postpone the clubhouse repairs until a later time. Reyes Morales has been working on the clubhouse grounds and will soon bury

exposed parts of the clubhouse irrigation system so that they will be better protected. Pool cleaning has started, some pool tiles have been replaced, and the decking has been patched to get us through the summer. The cost for this work is about \$2,500. A more complete repair of the pool decking consisting of cutting out and replacement of cracked areas will cost \$9,650, but cannot be done until September or October after the pool has been closed. This estimate is not for a complete replacement of the decking. Ms. Conrow has contacted the company that did the recent resurfacing of the tennis court to get newly opened cracks in the surface repaired under their warranty. The repairs will be performed in the first or second weeks of July and the court will be down for a period of about five days while the repairs are performed. There are some low spots in the lower right-hand corner of the court where water pools after it rains. Ms. Conrow will investigate whether this can be corrected under the warranty or whether there will be a charge for this work.

Ms. Conrow reported that she may soon move out of the Aspen Compound neighborhood where she now lives. She will re-assess her situation after her move, but hopes that she can stay on as clubhouse manager. She will be out of town for a two-week period during June at which time Pat Jackunas will manage clubhouse matters. However, Ms. Conrow will continue to do clubhouse reservations online during while away.

Jim Fassett reported that he had received an email from our Insurance agent that the Insurer (CIC) will soon send someone out to the neighborhood to inspect all the facilities that are currently covered by our Insurance policy.

ARB Chairman Report (William Schiller): There are a couple of completed projects that require inspection. This will be done in the next ten days

Homeowner comments: It was noted that several pinon trees in the neighborhood have scale infestations. This can be treated by spraying and can also be prevented by annual pinon tree spraying.

Old Business: It was noted that there has been an influx of homeless people into Santa Fe including into the property across Hyde Park Road from us. The EPCSA needs to ensure that they do not camp in our neighborhood.

New Business: Jim Fassett reported that we have about five or six new homeowners this year to date. He is aware of this because realtors send him disclosure forms for home sales for completion. However, he almost never gets requested contact information for the new homeowners from the realtors or Title Companies. He requested that if Board members become aware of anyone new in their neighborhood that they send him the contact information for the new owners for inclusion in the EPCSA records.

The Board noted that there is dead vegetation in the Arroyo Saiz which is on common property owned by the Altamira, La Viveza, Aspen Compound, Los Nidos and Cresta neighborhood subdivisions. There are about ten or fifteen dead trees in the part of the arroyo near the clubhouse with one dead tree falling during a recent storm. The City has a right of way in the Arroyo Saiz but is not responsible for the maintenance of the arroyo. Some Board members felt that the EPCSA should have the dead trees removed at its expense because residents from almost every neighborhood use the arroyo and because it is located close to the clubhouse. One Board

member felt that EP funds should not be used for this purpose, but that individual neighborhood subdivisions should be responsible for the maintenance work. The Board after further discussion approved a motion that Joan Conrow obtain estimates for the cost of removing the dead trees and report back to the Board about this.

Adjournment: The meeting was adjourned at 9:50 a.m. by a unanimous vote of the Board members,

MINUTES OF EPCSA BOARD OF DIRECTORS MEETING MINUTES

June 12, 2015

BoardMemberspresent: Jim Fassett (President), Pat Jackunas (Vice-President), William Schiller (Secretary), Jill McIntosh, Carol Genebach, Carolyn McCollum, and Barbara Chamberlin.

President Fassett called the meeting to order at 9:00 a.m.

Approval of May Board meeting minutes: The Board unanimously approved the minutes of the meeting of May 8, 2015 without corrections. President Fassett indicated that the actual costs of the various clubhouse repairs had been included in the minutes. The minutes reflect also that we were reimbursed \$4,640 by our Insurance Company for the repairs required as a result of the bathroom water leakage. Joan Conrow will later provide a financial summary table showing the various costs involved in recent and future repairs and maintenance for the clubhouse.

Treasurer'sReport (Jim Fassett): A.L. Bontrager was unable to attend the meeting. However, the Board received EPCSA Financial documents from him including the Balance sheet as of May 31, 2015 and the Profit and Loss Budget v. Actual Statement for the period January through May 2015.

ClubhouseManager'sReport(PatJackunas): Joan Conrow is currently out of town. Pat Jackunas has been closing the pool. She has not used the pool cover much recently because of frequent rains which can damage the cover as a result of the weight of water accumulating on the pool cover. Pat Haueter opens the pool each day. The Board noted that Pat Jackunas had planted annuals in the pots at the clubhouse entrance.

ARBReport(WilliamSchiller): There was nothing new to report. Chairman Schiller noted that if there were complaints about alleged violations of the Architectural guidelines in a particular neighborhood, the complaints should first be directed to the Architectural Review Committee in the neighborhood where the offending home is located. The Estancia Primera ARB will only deal with complaints of this nature if the neighborhood committee is unable to resolve them amicably.

Notice of Board Action outside of a Regular Board meeting: President Fassett reported that he had received unanimous written Board approval for the removal of dead trees in the Arroyo Saiz to the east of the clubhouse. The EPCSA will pay half of the total cost for the tree removal and for hauling off the debris. Because several of the dead trees were located on Los Nidos common property, the Los Nidos Board of Directors had agreed to pay the other half of the total cost for the project.

HomeownerComments: There were none.

OldBusiness: President Fassett reported that there are a few new homeowners for whom he still lacks the contact information. He requested that if Board members become aware of anyone new in their neighborhoods that they send him the contact information for the new owners for inclusion in the EPCSA records.

There was some discussion about installing speed limit signs in some of the neighborhood subdivisions. Apparently, the default speed limit is 25 mph in the absence of a sign mandating a lower speed limit. Speed limit signs are permitted provided they conform to the requirements of the architectural guidelines. It was noted that there is no way of enforcing speed limits on private streets in Estancia Primera.

NewBusiness: President Fassett reminded Board members that those whose Board terms are up in August 2015 after the completion of their two-year terms need to file Petitions of Candidacy with Dr. Schiller (as Board Secretary) if they wish to run for re-election at the August 2015 Annual Homeowners meeting. The Board members involved are A.L. Bontrager (Los Altos), Pat Jackunas (Kachina Hills), Carolyn McCollum (Los Altos Norte), Carol Genebach (Altamira), and Jill McIntosh (La Viveza). Additionally, Barbara Chamberlin, who was recently appointed as the Board member for Cresta, will need to file a Petition of Candidacy. In accordance with the Bylaws, each Petition of Candidacy has to be signed by five EP lot owners in good standing. The signatories in support of a candidate may be from any EP neighborhood subdivision and do not need to be from the neighborhood that the candidate wishes to represent. President Fassett will email Petition of Candidacy forms to the Board members. The deadline for submission of petitions is 30 days before the date of the Annual meeting or July 20.

After discussion, upon motion duly made and seconded the Board resolved unanimously to hold the Annual Meeting on Wednesday, August 19 at 7:00 p.m. at the clubhouse. The Board will finalize the arrangements for the Annual meeting at the July Board meeting. After this a notice of the Annual Meeting will be sent to all EP homeowners.

Adjournment: The meeting was adjourned at 9:29 p.m. by a unanimous vote of the Board members.

MINUTES OF EPCSA BOARD OF DIRECTORS MEETING

July 10, 2015

Board Members present: Jim Fassett (President), Pat Jackunas (Vice-President), William Schiller (Secretary), A.L. Bontrager (Treasurer), Jill McIntosh, Carol Genebach, Carolyn McCollum, Terry Schultz, and Barbara Chamberlin.

President Fassett called the meeting to order at 9:02 a.m.

Approval of June Board meeting minutes: The Board unanimously approved the minutes of the meeting of June 12, 2015 without corrections.

Treasurer's Report (A.L. Bontrager): Mr. Bontrager distributed the EPCSA financial documents including the Balance sheet through June 30, 2015 and the Profit and Loss Budget v. Actual Statement for the period January through June 2015. He reported that we are on track except for maintenance labor costs incurred for recent Clubhouse repairs. We have spent \$12,449 to date on clubhouse repairs, but our Insurance Company has covered \$4,640 of the total cost. The next significant item on the agenda is the resurfacing of the decking around the swimming pool. Mr. Bontrager will prepare a provisional budget for 2016 for presentation to the owners at the August Annual Meeting.

Clubhouse Manager's Report (Joan Conrow): The ladies bathroom, front steps, and tennis court repairs (the latter done under the warranty) have been completed. The only repair item pending is the resurfacing of the decking around the swimming pool. This has been tentatively scheduled for October 2015. A bid has been obtained for this work and will be sent to Mr. Bontrager. Repairs are also needed on the steps leading to the pool. This work will be scheduled for the same time as the decking project. A janitor comes in once per week to clean the restrooms and once each month to perform a more extensive cleaning of the clubhouse.

ARB Report (William Schiller): Chairman Schiller reported that there are three new projects and two have already been completed. A final inspection has resulted in approval. An Appendix IV Application is expected which contains details of a proposed residential construction in Cumbre Vista.

Presentation by Potential New Developer of the Hobo Hill Property: President Fassett introduced Cody North of True North Builders of Santa Fe who made a presentation about his proposed development project for the property opposite Estancia Primera off Hyde Park Road commonly known as "Hobo Hill. The sale of the property is still pending. Ernie Romero, the current owner of the property, was also present, and participated in the presentation. The aim of the presentation was to make Estancia Primera and other neighboring communities aware of the project at an early stage. However, required formal Early Neighborhood Notification (ENN) meetings will be held at later times as the project evolves into the pre-application phase. The public will be invited to those meetings. Messer's North and Romero made the following points during their presentation and in response to comments and concerns expressed by homeowners:

True North Builders specializes in developing and renovating problematic and dilapidated properties in Santa Fe. The Hobo Hill property is 70 acres in size. It extends from Valley Drive to Hyde Park Road. The entrance to the proposed new development will be on Hyde Park Road opposite the south entry to Estancia Primera as required by the Ordinance establishing the development. The property was part of the Estancia Primera zoning in the early 1980s and was zoned as a Planned Residential Community (PRC). There are different tracts within the property which allow different home densities. The original zoning allowed for two hundred lots on the property. However, True North Builders is planning to develop only 45- 50 lots for residential use. There will be a 100-150 foot setback along Hyde Park Road. No walls or fences can be built in the setback.

The property will contain some trail systems and significant amounts of open space. Lots and homes will be of varied sizes. There will be some condo-type homes, two-acre lots, and some medium sized (0.5 acre) lots. All homes will be single story. The area is part of the Escarpment District and the developer will have to conform to all the requirements for the District. Homes will have to be finished in earth tones and will be screened by a tree every 15 feet. Construction traffic will use Hyde Park Road. However, True North Builders will attempt to minimize traffic problems by doing the development in phases and by having on site storage areas for lumber and other building equipment. True North builders will build the majority of the project although some lots will be sold to independent builders.

True North Builders will close on the property during August 2015 if they find it viable. After that they expect that the approval process will take about 6-8 months. Then permits have to be obtained which will take another 3-4 months. They therefore expect to start putting in roads and infrastructure towards the end of summer in 2016. At that point they will begin selling some lots. After that it is unlikely that any homes will be built for at least one year. If the City requires it, True North Builders may have to construct a turn lane on Hyde Park Road that will benefit Estancia Primera by improving the flow of traffic on the road. However, the City believes that a traffic light will not be required at the entry to the new development. The development may be partly or completely gated. There are currently no plans for widening Hyde Park Road, however, True North Builders may work with the State to discuss this possibility.

The Affordable Housing Act requires that about 20 per cent of the homes be affordable. Some lots will be donated to Habitat for Humanity for home construction, but other options exist for compliance with the Act. The Ordinance requires that True North Builders present two plans to the city. One plan is for all residential lots and the other is for residential lots plus one commercial lot near the development's entry. The Ordinance requires that the proposed new development will have CC&Rs and architectural guidelines upon final approval. Provisions will be made to handle water drainage from the property so that the water leaving the development when complete will not exceed that leaving the undeveloped property. The developer will oppose the use of street lighting in discussions with the City.

Plans for EPCSA Annual Member's Meeting: The Board agreed unanimously on the following arrangements and rules for the Annual Meeting to be held on August 19, 2015 at the Clubhouse at 7:00 p.m.

President Fassett will chair the meeting and prepare an agenda for it. Board officers will present the ARB, Clubhouse, Grounds Maintenance, and Financial reports. The three main goals of the Annual Meeting are to elect or re-elect Board members, to submit and discuss the provisional budget for the 2016 fiscal year, and to approve the minutes of the 2014 Annual meeting. The draft minutes for the August 20, 2014 meeting Annual Meeting will be posted on the Estancia Primera web site so that owners may read them prior to the meeting.

Six of the existing Board members' terms expire in August. These are A.L. Bontrager (Los Altos), Carolyn McCollum (Los Altos Norte), Carol Genebach (Altamira), Pat Jackunas (Kachina Hills), Jill McIntosh (La Viveza), and Barbara Chamberlin (Cresta). Barbara Chamberlin was appointed to the Board earlier this year and thus must be elected to the Board in August. All candidates for election or re-election must submit Petitions of Candidacy to Secretary Schiller no later than July 20, 2015. Any owner who resides in a neighborhood with an upcoming Board vacancy may nominate himself or herself for the position. This requires submission of a Petition of Candidacy to Dr. Schiller no later than July 20, 2015. Each petition must be signed by five Estancia Primera homeowners in good standing. President Fassett has notified all EP owners about this via email and has included copies of the Petitions of Candidacy as email attachments.

If there are no contested elections for the six neighborhood subdivision Board vacancies, the nominees will be elected by acclamation as has been the practice in Estancia Primera for many years. If there are competing candidates for elections, secret ballots will be used. The method of voting that will be used at the meeting will be "At large by neighborhood subdivision" consistent with EPCSA's Amended Bylaws.

President Fassett will both mail and email a notice regarding the date, time, and place of the Annual Meeting, the agenda for the meeting, and the method of voting to be used to all EP owners at least fifteen (15) days before the meeting date as required by the Amended Bylaws. Draft budgets for the remainder of this fiscal year and for FY 2016 will be provided by the Treasurer and will be posted on the EPCSA web site prior to the Annual Meeting.

Proposed Bylaw Amendments: The Board noted that Article X, Section 1 of the Amended Bylaws provides that "These Amended Bylaws may be amended, at a regular or special meeting of the Members, by a vote of two-thirds (2/3) of the Members present in person or by proxy." The Board noted that the Bylaws were written in about 1981 at which time electronic forms of communication were unavailable. The Bylaws, in several locations, require that announcements and documents be sent to Members via the USPS, postage prepaid. The Board believes that emails should supplant conventional mail wherever possible, with the exception of those owners who do not use email, and those owners would continue to receive EPCSA announcements and other documents via ordinary mail. This would significantly reduce costs for the EPCSA since in addition to paying for postage the Association may have to pay to have the mailings prepared.

The Board therefore resolved to review the Amended Bylaws of the Association and to develop a list of proposed amendments that can be submitted to the Membership for a vote at the 2016 Annual Meeting. If necessary, the President will consult the Association's attorney about the proposed amendments before presenting them to the Members.

Fourth of July Fireworks in Estancia Primera: The Board noted that on July 4 of this year there had been extensive use of fireworks, including rockets, within Estancia Primera. Some of this originated with EP residents. Additionally, people who don't live in the neighborhood had been observed launching rockets from the Clubhouse parking lot. It was further noted that the Board had long ago prohibited the use of fireworks in EP. The prohibition was based on Section 6.3 of our CC&Rs which bars nuisances such as noise and any activities that violate any City Ordinance. The use of any fireworks that reach higher than 15 feet into the air, are self-propelling, and make a booming noise are illegal within the City of Santa Fe except when supervised and regulated by the City. The Board is concerned that fireworks could set homes on fire if they land on rooftops and could also start vegetation fires.

After discussion, the Board resolved unanimously that setting off fireworks within Estancia Primera should continue to be prohibited on July 4 or at any other time. The Board requested that the President send emails to all owners each year reminding them of the fireworks prohibition shortly before each July 4 holiday weekend. Owners will also be requested to notify the Police Department immediately if they observe trespassers in the neighborhood setting off fireworks.

Homeowner Comments: A homeowner reported that on July 9, 2015, there had been a motor vehicle collision on Avenida Primera opposite the entry to Los Altos Norte. A USPS vehicle had emerged from Los Altos Norte and collided with a vehicle proceeding north on Avenida Primera towards the Estancia Primera south exit. The Police Department had been called and the driver of the Post Office vehicle informed the officer that his view of oncoming traffic from the south along Avenida Primera had been obscured by chamisas growing on the south side of the entry into Los Altos. It was further noted that the same chamisas prevent drivers of vehicles proceeding north on Avenida Primera towards the EP exit from seeing whether there is a vehicle preparing to exit Los Altos Norte. The Board concurred that there seemed to be a hazard caused by chamisas at the Los Altos Norte entry and that these were likely to be on Los Altos Norte common property. Carolyn McCollum, as the Los Altos Norte representative, promised to get the chamisas either removed as soon as possible or cut back now and at regular intervals each year (if they are not removed) to eliminate this hazard.

New Business: Terry Schultz reported that she had been told by a Cumbre Vista homeowner that there is a cottonwood tree near the north entry to Estancia Primera growing near a power box. She did not know on whose property the tree is located. The Board will investigate whether the alleged proximity of the tree to the power box constitutes a problem that needs addressing.

Adjournment: The meeting was adjourned at 10:19 a.m. by a unanimous vote of the Board members.

ESTANCIA PRIMERA COMMUNITY SERVICES ASSOCIATION (EPCSA)

ANNUAL MEETING MINUTES - AUGUST 19, 2015

President Fassett called the Annual Meeting to order at 7:00 pm.

Directors present: Jim Fassett (President), A.L. Bontrager (Treasurer), William Schiller (Secretary), Jill McIntosh, Carol Genebach, Carolyn McCollum, Terry Schultz and Barbara Chamberlin.

Approval of August 20, 2014 Annual Meeting Minutes: The minutes were approved unanimously as submitted.

President's Comments:

Change of Clubhouse Manager: Joan Conrow was appointed as the new Clubhouse Manager during 2015.

Lawton lawsuit against EPCSA: On May 12, 2014 Plaintiff Lawton filed a Second Amended Complaint in First District Court. The Amended Complaint added the EPCSA as a new defendant in her lawsuit of December 10, 2010 against four EP homeowners for having trees on their lots that allegedly interfered with her western views. She had previously settled with four other defendants in the lawsuit. The Amended Complaint asked the Court for a Declaratory Judgment that the Sommer Amendment of Section 6.18 of the EPCSA's Restrictive Covenants was invalid and unenforceable and requested that the Court order removal of several trees on the individual defendants' lots. The EPCSA insurer, Cincinnati Insurance Company, engaged K. Stephen Royce of the Albuquerque law firm, Arland and Associates to defend the Association.

On August 28, 2014 Mr. Royce filed a Motion with the First District Court (in which the individual defendants joined) asking the Court to dismiss the Plaintiff's lawsuit for lack of joinder of persons needed for just adjudication. On October 22, 2014 the Court ordered Plaintiff Lawton's lawsuit dismissed without prejudice unless she named as parties all 189 EP lot owners within sixty (60) days of the date of the Order. After this ruling Plaintiff Lawton approached the individual defendants and the EPCSA to settle the lawsuit.

All parties agreed to settle and the Settlement Agreement, in which Plaintiff Lawton abandoned almost all of her claims, was signed on December 18, 2014. She undertook in the Agreement not to further challenge the validity of the Sommer Amendment and not to further sue the EPCSA or any other party to the lawsuit. On January 9, 2015, the presiding judge, Judge Francis K. Mathew, signed a *Stipulated Order of Dismissal* [of the Lawton lawsuit] *with prejudice* thereby ending the lawsuit. The Settlement Agreement and the Judge's Order were posted on the EPCSA website.

Treasurer's Report (A.L. Bontrager): The EPCSA financial documents were made available on the EPCSA's web site prior to the meeting. These are the Profit & Loss Budget vs. Actual document (for January through July 31, 2015), the projected total expenditures for 2015, the proposed EPCSA Budget for

2016 and the 2015 Balance Sheet (as of July 31, 2015). The final budget for 2016 and the annual dues for 2016 will be voted on by the Board of Directors at its December meeting.

The Capital Reserve Fund is currently about \$96,426. Mr. Bontrager indicated that the Board's aim was to gradually build the Reserve Fund to about \$120,000 to \$130,000 as had been recommended to him by an independent accountant a few years ago. Anything left over after expenditures incurred in 2015 will be added to the Fund.

ARB Report (William Schiller): Dr. Schiller reported that the ARB had approved ten Appendix III applications (minor exterior projects) since the last annual meeting. Homeowners were reminded that they need to notify Dr. Schiller when their projects have been completed so that he can do inspections and return performance deposits.

There has been a recent trend for potential buyers of homes in EP to contact the ARB to attempt to obtain prior approval of exterior projects before they purchase a home. This amounts to making the sale contingent on preapproval of the project. It was emphasized that the ARB cannot guarantee that any specific exterior changes to a home can be made prior to the purchase and only the existing homeowner can file an ARB application for an exterior change. Such applications will be handled in the same manner as all other ARB applications.

Clubhouse Manager's Report (Joan Conrow): The steps at the front of the Clubhouse building were repaired. There was a longstanding leak in a wall in the women's bathroom. Damage resulting from that was repaired at a total cost was \$8,650, but the Insurance Company paid \$4,640 of the cost. The pool decking will be repaired in the fall after the pool has closed for the year.

Grounds Maintenance Committee Report: Joan Conrow will ask Reyes Morales to mow the grass in the bed in front of the parking lot more frequently to maintain a tidy appearance. The contract for snow removal on Avenida Primera includes clearing of snow from the Clubhouse parking lot. Longstanding surface cracks and small potholes in the asphalt surface of Avenida Primera have recently been repaired by the City.

Possible Development of "Hobo Hill" property (Jim Fassett): Jim Fassett reported that a potential purchaser of the Hobo Hill property, Cody North of True North Builders of Santa Fe, had attended the July 2015 EPCSA Board meeting and made a presentation about the proposed project. The property is 69 acres in size. The entrance to the proposed new development will be on Hyde Park Road probably opposite the south entry to EP. The property was zoned as a Planned Residential Community (PRC) in 1981. The original zoning allowed for two hundred lots. However, True North Builders plans to develop only 45-50 lots for residential use.

All homes will be single story. Homes will have to conform to all the requirements for the Escarpment District. Construction traffic will use Hyde Park Road. However, the developer will attempt to minimize traffic problems by doing the development in phases and by having on site storage areas for lumber and other building equipment. If the City requires it, True North Builders may construct a left turn lane on

Hyde Park Road near the entry. This will benefit EP by improving traffic flow. However, the City will not allow a traffic light at the proposed development entry site.

Election of New Board of Directors (William Schiller): Dr. Schiller reported that he had received nominations in good order for the election of the following individuals for two-year Board terms: A.L. Bontrager (Los Altos), Barbara Chamberlin (Cresta), Jill McIntosh (La Viveza), Leslie Walker-Hirsch (Los Altos Norte), Pat Jackunas (Kachina Hills) and Carol Genebach (Altamira). President Fassett explained that since there were no contested elections, the nominees would be elected by acclamation in accordance with the Board's decision at its July 2015 meeting. A motion duly made and seconded to elect by acclamation A.L. Bontrager, Barbara Chamberlin, Jill McIntosh, Leslie Walker-Hirsch, Pat Jackunas and Carol Genebach, all for two-year Board terms, was approved unanimously.

New Business:

Fourth of July Fireworks in Estancia Primera: During the recent July 4 celebrations there had been extensive use of fireworks including rockets by both EP owners and trespassers. The Board had long ago prohibited the use of fireworks in EP based on Section 6.3 of our CC&Rs. This bars nuisances such as noise and any activities that violate any City Ordinance. The prohibition continues to apply. The use of any fireworks that reach higher than 15 feet into the air, are self-propelling and makes a booming noise is illegal within the City. The Board is concerned that fireworks could start home and vegetation fires. Each year prior to the July 4 celebrations, the Board will remind all EP owners that the use of fireworks is prohibited and that they should notify the Police Department immediately if they observe trespassers setting off fireworks.

Home Rentals: Some property renters within EP are not complying with neighborhood maintenance and other requirements. After discussion it was decided that the Board would write to each neighborhood Association President to obtain a list of homes that are rented regularly in their neighborhood subdivisions. The owners of such homes will then be asked to provide contact information for renters to the neighborhood Association so that the renters may be contacted if problems arise.

Adjournment: The meeting adjourned at 7:51 pm.

**EPCSA Board of Directors Meeting Minutes
September 11, 2015**

Board Members present: Pat Jackunas (President), Jim Fassett (Vice-President), William Schiller (Secretary), A.L. Bontrager (Treasurer), Jill McIntosh, Carol Genebach, and Terry Schultz.

The meeting was called to order by President Fassett at 9:02 a.m.

Election of Board Officers for 2015/2016: A motion was duly made and seconded that the following officers be elected for a one-year period ending August 2016 was passed unanimously.

Patricia Jackunas (President)
James Fassett (Vice-President)
William Schiller (Secretary)
A.L. Bontrager (Treasurer)

(Ms. Jackunas chaired the meeting following the election)

Approval of July Board meeting minutes: The Board unanimously approved the minutes of the July 10, 2015 meeting without corrections.

Treasurer's Report (A.L. Bontrager): Mr. Bontrager distributed the EPCSA financial documents including the Balance sheet as of August 31, 2015 and the Profit and Loss Budget v. Actual Statement for the period January through August 2015. He reported that the EPCSA is currently over budget for the amounts shown on the following items:

Insurance policy premium (\$273)
Ground supplies (\$378)
Refuse collection (\$95)
Maintenance labor for clubhouse repairs (\$2,300).

In the fall, EPCSA will spend an additional ~\$10,000 for resurfacing the pool deck. A further expense of ~\$4,000 will be incurred for other concrete work around the pool, repairing the pool cover, and upgrading the motor for the cover.

Clubhouse Manager's Report (Jim Fassett): Joan Conrow was out of town. Jim Fassett reported that Ms. Conrow had scheduled the pool repairs for October after the pool is closed. Pat Jackunas asked that any Board members who could be available to help with closing the pool when she is out of town should contact her.

ARB Report (William Schiller): Chairman Schiller reported that there have been two recent projects given final approval and a deposit refund. One was an Appendix III and the other an Appendix IV project. Three other Appendix III projects are in the advanced stages of the approval process.

Appointment of new Estancia Primera ARB members: Nominations were received from three neighborhood subdivisions for the appointment of new Estancia Primera ARB members to replace members who had resigned. The three nominees were:

Carolyn McCollum (Los Altos Norte)
Hank Doucette (Altamira)
Jerry Ward (Los Altos)

Upon motion duly made and seconded, the Board approved the appointments of the above three individuals unanimously.

Homeowner Comments:

An Aspen Compound homeowner reported that a Sotheby's realtor, who had the listing for a home in the neighborhood, had been parking in driveways of occupied homes adjacent to the residence for sale and had been placing the trash container for the residence outside other occupied homes. He had also been seen speeding on the private street in Aspen Compound thereby endangering young children who play in front of their nearby home and who often cross the street to visit neighbors. The owner reported that he had spoken to the realtor about these problems as had the President of the Aspen Compound Homeowners Association. However, their calls to the realtor's supervising broker at Sotheby's had not been returned. Jill McIntosh asked the homeowner to give her the name of the realtor privately after the meeting so she could report the problem to the qualifying broker at Sotheby's.

Old Business: There was none.

New Business:

Speed limits on private streets in EP neighborhood subdivisions: Jill McIntosh reported that the La Viveza neighborhood subdivision had been experiencing problems with vehicles speeding on their private street. They had accordingly purchased from Highway Supply, of Albuquerque, a street sign indicating that the maximum speed permissible on the street was ten miles per hour. The contact person at the company is Marty Saavedra (tel. no. 505-345-8295). The cost of the sign uninstalled was \$50. The company also provides installation of signs at an additional cost if this is requested. She suggested that all neighborhood subdivisions in Estancia Primera ***with private streets*** consider posting signs limiting the maximum speed to ten miles per hour. After discussion, the Board agreed that the setting of speed limits and the erection of speed limit signs on private streets in EP neighborhood subdivisions were matters for each subdivision to decide.

Payment for use of the Clubhouse conference room for private functions: A.L. Bontrager pointed out that the use of the clubhouse for private functions usually results in costs being incurred by the EPCSA for clubhouse cleaning after the functions, for cleaning and other supplies, and for reimbursing the Clubhouse Manager for opening and closing the clubhouse. He suggested that the Board should consider levying a fee of about \$50, payable in advance, for each private function. The fee would not apply to official business meetings of the EPCSA or of the neighborhood subdivisions. The matter will be placed on the agenda for the October Board meeting.

Cluster mailbox vandalism: Jim Fassett reported that one of the condominium developments on Hyde Park road had recently had three cluster mailboxes vandalized. The Cumbre Vista cluster mailboxes had also been vandalized several months ago. Jim suggested that residents should be encouraged to collect their mail promptly so as to avoid property and identity theft.

Use of Clubhouse Conference room for fund raising activities: Jim Fassett reported that a Rotary Club member had approached Joan Conrow about the Rotary Club using the clubhouse conference room for a fundraising function. It was noted that the EP Board had resolved many years ago that commercial activities, including fundraising, would be prohibited at the Clubhouse. The Board agreed unanimously that permission for the use of the Clubhouse by the Rotary Club be denied.

Estancia Primera website: Jim Fassett volunteered to continue to be the liaison with Estancia Primera's website person. Jim requested that all neighborhood subdivisions ensure that the details for their website

pages be kept up to date and that any changes be sent to him for updating their web-site pages. These website pages include names and contact information for neighborhood subdivision Board and ARB members and each subdivision's Bylaws and CC&Rs. This information is helpful to realtors and title companies for preparation of Disclosure Statements.

Lending Library Box in La Viveza: Jill McIntosh reported that a La Viveza owner had set up a wooden box on his property to be used as a lending library. The home had subsequently gone on the market and the owner had then moved the structure to La Viveza common property near the mailbox cluster without obtaining authorization from the La Viveza ARB and there had subsequently been several complaints about this structure. Jill and the President of the La Viveza HOA investigated how best to deal with this matter without creating an adversarial situation; Jill noted that this wooden structure would have to be maintained and that its door is poorly secured and is often blown open by the wind exposing the books to the elements. A discussion followed about moving the Lending Library to the Clubhouse and a motion was made and seconded that the existing structure be installed in an inconspicuous location near the front of the clubhouse and that it would be monitored by volunteers. The motion passed by a vote of 6 to 1.

Hobo Hill Development project: Jim Fassett reported that the matter is still pending with the City. He noted that some homeowners in other neighborhoods along Hyde Park Road were opposed to the proposed new development. Most Board members felt that the proposed development was desirable from the EPCSA's point of view. The potential developer is known to do excellent work and to be responsive to neighborhood concerns. The Board concluded that the situation should be monitored. However, the main emphasis of the EPCSA should be to obtain assurances about traffic volume and the creation of a turn lane for traffic entering the proposed development from Hyde Park Road from the City Engineer rather than on opposing the proposed new development as a whole.

Vacant lot on Hyde Park Road opposite Los Altos subdivision: The Board noted that there is a vacant lot for sale on Hyde Park road that borders on the Los Altos subdivision. A.L. Bontrager reported that the Los Altos Board had been approached by the lot owner regarding obtaining access to Camino Los Altos and to connecting with existing Los Altos infrastructure if a home is built on the lot. The Los Altos Board had indicated that it would only agree to this if the lot were to become part of Los Altos and if the lot owner agreed that any home constructed on the lot would conform to the Los Altos and EPCSA architectural guidelines. The owner had declined to accept these conditions and nothing further has been heard about the matter for at least two years.

Solicitors in neighborhood: Terry Schultz reported that she had recently encountered solicitors for Andersen Windows in her neighborhood. The Board agreed that any Company that sent solicitors into Estancia Primera should be informed that solicitation in Estancia Primera is prohibited. Alternatively, the police might be called.

Date of next Board meeting: The Board decided to hold the next Board meeting on October 16 instead of on October 9.

Adjournment: The meeting was adjourned at 9:53 a.m. by a unanimous vote of the Board members.

EPCSA BOARD OF DIRECTORS MEETING MINUTES
October 16, 2015

Board Members present: Pat Jackunas (President), Jim Fassett (Vice-President), William Schiller (Secretary), Jill McIntosh, Carol Genebach, Barbara Chamberlin, Terry Schultz and Leslie Walker-Hirsch.

The meeting was called to order at 9:00 a.m.

Board Documents Distributed: President Jackunas requested that Board members in future print out the Treasurer's Report, the prior Board meeting minutes and the meeting agenda (as distributed to them via email) and bring these with them to each Board meeting. Copies of these will not be distributed at future Board meetings. This will prevent unnecessary duplication and will save on costs and labor for the Association.

Approval of September Board Meeting Minutes: The Board unanimously approved the minutes of the September 11, 2015 meeting without corrections.

Treasurer's Report (Pat Jackunas): Mr. Bontrager, who could not attend the meeting, had distributed to all board members a *Transaction Detail by Account* document for September 2015 and the Profit and Loss Budget v. Actual Statement for the period January through September 2015. He had reported that there were no unusual issues involving the EPCSA finances.

Clubhouse Manager's and Grounds Maintenance Report (Pat Jackunas): Joan Conrow could not attend. The clubhouse swimming pool will be drained on October 26. Work will then start on the deck, tile repair, and tow-box. Separate bids were obtained for each of these items. These will be consolidated and the Board will be informed regarding the total cost of the project. Reyes Morales will soon shut down and winterize the clubhouse irrigation system and will cut the grass in the bed on the west side of the parking lot.

President Jackunas requested that Board members contact the Presidents of their respective neighborhood subdivisions regarding snow plowing on their streets. Any neighborhood wishing to be included for snow removal when Avenida Primera is plowed should notify her and Joan Conrow. It is known that Altamira, Los Nidos, Los Altos Norte, Aspen Compound, and La Viveza make their own snow plowing arrangements. Information regarding the snow plowing needs for Los Altos, Cumbre Vista, Cresta and Kachina Hills needs to be provided as soon as possible for timely renewal of the snow plowing contract for EP.

ARB Report (William Schiller): Chairman Schiller reported that the ARB had met on September 9th and details regarding past applications that had been approved by email by the ARB members were reviewed and the record updated by including the past approvals in the minutes of the meeting. The ARB members familiarized themselves with an Appendix IV Application from a resident in Altamira. The plans for the project were subsequently approved by the EPCSA's consultant architect. Another meeting of the ARB will be scheduled soon to consider final approval of the project.

Homeowner Comments: There were none.

Old Business:

EP Website: Jim Fassett reported that he has updated the EP web site to include all available new information regarding the EPCSA and neighborhood subdivisions. He asked that all Board members keep him apprised of any changes in their neighborhood Boards or documents that should be shown on the website. This is important for the preparation of Disclosure Statements for homes being sold since reference can be made to the EP website for documents that need to be included in Disclosure Documents requested by realtors.

Charges for Preparation of Home Sale Disclosure Statements: The Board noted that the EPCSA currently charges \$50 for preparation of Disclosure Statements that are required by the recently-enacted HOA Act. The onus is on sellers to provide such statements to prospective buyers, but generally realtors approach the EPCSA President about this on behalf of the sellers. Additionally, the EPCSA is usually approached by Title companies to complete documents for home sales and an additional \$50 is charged for this. Accordingly, the total cost to sellers for preparation of such documents is \$100 currently. Additional charges are incurred when neighborhood subdivisions are approached to provide Disclosure statements but these costs vary from neighborhood to neighborhood. The Board noted that the preparation of Disclosure Statements is fairly time consuming and some Board members wondered whether the fee for completing them should be increased. After discussion the Board resolved to leave the fee unchanged for the present. Persons or entities requesting such documents will, however, still be required to make the necessary payments before the documents are provided.

Frequency of Board Meetings: President Jackunas asked Board members whether they would consider not holding Board meetings when there was no business to consider. Board members noted that the EP Bylaws require that meetings be held monthly. After discussion, the Board resolved to continue holding monthly Board meetings with meetings being cancelled only in the event that a quorum cannot be obtained or when there is inclement weather making driving dangerous. Also, according to a longstanding tradition, there is usually no August Board meeting because of the occurrence of the annual Members' meeting. In the event that a scheduled Board meeting is cancelled, Board members will be asked to approve the minutes of the prior Board meeting by email so that the minutes can be posted on the EP website in a timely manner.

New Business: There was none.

Adjournment: The meeting was adjourned at 9:45 a.m. by a unanimous vote of the Board members.

EPCSA BOARD OF DIRECTORS MEETING MINUTES
November 13, 2015

Board Members present: Pat Jackunas (President), Jim Fassett (Vice-President), William Schiller (Secretary), A.L. Bontrager (Treasurer), Jill McIntosh, Carol Genebach, Barbara Chamberlin, and Terry Schultz (present via conference call).

The meeting was called to order at 9:00 a.m.

Approval of October Board meeting minutes: The Board unanimously approved the minutes of the October 16, 2015 meeting without corrections.

Treasurer's Report (A.L. Bontrager): Treasurer Bontrager had distributed to all Board members a Transaction Detail by Account document for October 2015, a Balance Sheet as of October 31, 2015, and the Profit and Loss Budget v. Actual Statement for the period January through October 2015. He reported that the Association has to date exceeded the amount budgeted for 2015 by \$268 for refuse/trash removal, by \$523 for general management, by \$513 for ground supplies, by \$2,309 for maintenance labor and by \$298 for Insurance. The Association currently has \$96,438 in its Capital Reserve account and \$14,815 in its Operating account. The latter amount is available to cover expenses incurred before the end of 2015 without the Association having to use funds from the Reserve account. The Association has made a down payment of about \$9,400 to Lee-Sure Pools Inc. for pool deck repair work. This amount may or may not be used now depending on what the Board decides regarding the proposed pool renovation project.

ARB Report (William Schiller): Chairman Schiller reported that the ARB is up to date on all of its activities.

Pool Renovation Project: President Jackunas introduced Lee Poper from Lee-Sure Pools, Inc. His company had in the spring repaired some pool tiles from the worst-affected parts of the pool deck for \$3,500 so that the Association could get by for the 2015 season. He reported that the pool deck is in bad shape. It is about 20-25 years old and has been repaired many times over the years. Mr. Poper indicated that apart from the damage to the surface coating of the deck, the concrete underneath is deteriorating. He indicated that replacement of the entire pool deck and of the box containing the pool cover mechanism was needed.

Mr. Poper indicated that the EPCSA had two choices: 1) The Association could do the minimum amount of repairs necessary to repair the deck area in the spring of 2016 at a cost of about \$9,000, or 2) it could have the entire deck replaced. If the latter were done, the Association would, in his opinion, save approximately \$9,000 that would have been used to perform temporary repairs because the temporarily-repaired areas would eventually have to be redone when the entire deck is replaced.

Mr. Poper listed all of the various repairs he felt were needed in the pool area (see attached estimate of 11/6/2015 for details) to restore the pool to first-class condition. These are: deck removal and replacement - \$43,788 + \$9400 down payment = \$53,188; installation of a second

drain as a safety feature - \$1,800; replastering of the pool - \$7,800; renovation of upper concrete patio area - \$7,680; and gross receipts tax - \$2,300. The total cost for this work would be \$72,768. The actual out of pocket cost for pool repairs for 2016 would be \$63,368 when the down payment of \$9,400 already made is subtracted. Some Board members suggested that the renovation of the upper concrete patio area was not immediately needed, and so if not done would right now, would reduce the out of pocket pool-work cost for 2016 to \$55,688. Mr. Poper indicated that the full renovation could be completed in the spring 2016 prior to the scheduled pool opening in May.

After discussion the Board noted and resolved that at least three estimates would be obtained for the proposed renovation and that Mr. Poper would provide a document that would be easily understandable to all owners showing essential and optional items for the pool work including the costs for individual items.

Treasurer Bontrager stated that the pool renovation work could be paid for either from the Capital Reserve Fund or by a Special Assessment applied against all 189 lots in Estancia Primera. The Board noted that use of the Capital Reserve Fund for the pool work would reduce the capital reserves to \$40,000 - \$45,000.

The Board noted that a Special Assessment would require the approval of ninety-five Estancia Primera owners (slightly over 50%) as per Sections 1.42 and 5.8 (a) of the EPCSA CC&Rs. The Special Assessment would amount to about \$300-\$350 per lot depending on the repair options chosen. Section 5.8(a) of the CC&Rs makes provision for such an amount to be payable over a period of not more than three years. After further discussion the Board resolved to table further discussion of the method of payment for the pool work until the December Board meeting. By that time more detailed information will be available from Mr. Poper and further estimates from a least two additional bidders will be in hand.

Clubhouse Manager's and Grounds Maintenance Report (Pat Jackunas): Clubhouse Manager Joan Conrow could not attend and President Jackunas made the report stating that a set of rules for the use of the clubhouse will be posted in the kitchen and in a couple of other locations in the clubhouse. These rules will include instructions for cleaning up after a function is held at the clubhouse. Also, the Clubhouse Manager will purchase brooms, dustpans, mops and other cleaning supplies that will be placed in a location where they are easily accessible to users for cleanups after they use the clubhouse.

Possible Fees for Use of the Clubhouse: President Jackunas reported that she had asked Clubhouse Manager Joan Conrow about costs incurred when the clubhouse is used for functions. Costs incurred include those for electricity, heat, water, paper supplies, and a cleanup of the conference room area and bathrooms. Even though Ms. Conrow does not have to admit people for functions (they use the key in the lockbox) she nonetheless has to check on the clubhouse on the day following a function to make sure that it is properly cleaned. The Association pays Joan Conrow for these inspections and for her travel.

The Board had discussed a possible user-fee at the October Board meeting. Since then discussions among Board members had led to a recommendation that any EP owner or any group

sponsored by an EP owner that uses the clubhouse should pay a usage fee of \$75 - \$100. Exemptions from this fee would apply to all official uses of the Clubhouse such as Board and other meetings held by the EPCSA Board of Directors and the ARB, meetings of neighborhood-subdivision homeowner associations, and use by the EP women's Group. The user fee would be payable in advance.

A motion was then made and seconded that a user fee of \$75 be required of all EP owners and groups sponsored by owners who reserve the clubhouse with the exception of the exempted groups listed above. During the discussion, Board members concluded that each use of the Clubhouse for a function costs the Association about \$150-\$200. Some Board members felt that a \$50 usage fee would be more appropriate. The payment of a user fee would not excuse users from cleaning the clubhouse afterward. It was noted that the swimming pool area may not be reserved, either by individual owners or by groups. After further discussion, the Board decided to table the user-fee motion until the next Board meeting giving Board members more time to discuss a possible this fee with the owners in their neighborhoods.

Homeowner Comments: There were none.

Old Business: There was none.

New Business: There was none.

The meeting was adjourned at 10:27 a.m. by a unanimous vote of the Board members.

EPCSA BOARD OF DIRECTORS MEETING MINUTES

December 11, 2015

Board Members present: Pat Jackunas (President), Jim Fassett (Vice-President), William Schiller (Secretary), A.L. Bontrager (Treasurer), Jill McIntosh, Carol Genebach, Barbara Chamberlin, and Terry Schultz.

The meeting was called to order at 9:00 a.m.

Approval of November Board meeting minutes: The Board unanimously approved the minutes of the November 13, 2015 meeting without corrections.

Treasurer's Report (A.L. Bontrager): Mr. Bontrager reported that he had distributed the 2016 budget forecast to all Board members and that it had been posted on the EPCSA website for perusal by all EPCSA members. The budget is similar to the provisional budget presented at the August Annual Members meeting. The current budget, however, includes an increase for maintenance labor costs and for expenses incurred for clubhouse management. Mr. Bontrager had also, prior to the meeting, distributed to Board members a Balance Sheet as of November 30, 2015 and the Profit and Loss Budget v. Actual Statement for the period January through November 2015. The Association spent about \$1,800 during November. The Capital Reserve Account currently stands at \$96,442. The Operating Account for the remainder of 2015 contains \$12,834. Upon a motion duly made and seconded, the Board voted unanimously to adopt the 2016 Budget forecast submitted by Mr. Bontrager and to leave the annual dues unchanged at \$420.

ARB Report (William Schiller): Chairman Schiller reported that the ARB is up to date on all of its activities.

Pool Renovation Project: Mr. Bontrager reported that the pool is about 25 years old and during that time the current and past Boards have maintained the pool with routine maintenance. A.L. outlined the following pool problems that had been discussed at the November Board meeting:

- The box containing the cover that opens and closes the pool is defective
- 2-inch toe tile on the top edge of the pool stairs is now required by Code
- The concrete surface of the pool deck shows several areas of deterioration
- There are cracks in the pool plaster
- The current single pool drain constitutes a safety hazard. Dual drains would be required to eliminate the hazard.

The Board obtained three bids for the pool renovation that would address these problems, as follows:

- Lee-Sure Pools of Albuquerque - \$63,850.22 including 8.3125% sales tax and includes a two-year warranty for all work
- Hermanson Construction, Inc. of Albuquerque - \$74,843.95, not including tax and no warranty period is stated in the bid

- Natures Creations Inc. of Santa Fe - \$87,758.04, not including sales tax and the bid provides a one-year warranty.

Mr. Bontrager indicated further that the Board has two options for paying for the pool renovation. 1) The payment could be made using funds in the Capital Reserve Account, or 2) a Special Assessment of about \$350 per lot could be levied against all EP lot owners. He personally recommended using the Capital Reserve Fund for the project and pointed out that if the lowest bid from Lee-Sure Pools were accepted we have already paid them \$9,664 as a down payment during 2015 for pool repairs. Deducting that amount from their bid would leave a balance owed of \$54,186.22. Our Association currently has \$12,834 in our Operating Account. Assuming that \$4,000 of that amount is spent for general purposes during the remainder of 2015, the EPCSA could take approximately \$8,500 out of the Operating Account and apply it to the pool renovation costs. This would further reduce the amount that would have to be withdrawn from the Capital Reserve Account to \$45,686.22 leaving \$50,755.78 in the account. Mr. Bontrager believes that this amount would easily cover unforeseen 2016 expenditures especially since the clubhouse has had extensive maintenance performed during the past several years.

Mr. Bontrager outlined how the EPCSA might rebuild the Capital Reserve Account if the above method of payment were adopted. He indicated that with the recent dues increase, it is likely the EPCSA would have a balance in the Operating Account at the end of most years of from \$9,000-\$10,000. It is therefore likely that the Capital Reserve Fund could build back up to around \$100,000 after in about six or seven years.

Mr. Bontrager indicated that there were a couple of items relating to the pool renovation that had arisen during discussions that are not covered by the three bids mentioned above. One of the contractors suggested that we should increase our piping to the pool skimmers from the current two-inch size to three inches. Lee-Sure Pools Inc. indicated, however, that this is unnecessary. Mr. Bontrager discussed this matter with Carver Busch of Kokopelli Pools and Spa Maintenance of Santa Fe who have been taking care of our pool for many years. Mr. Busch indicated that the State Environment Department requires a water turnover rate of six hours. This is the time it takes to filter all the water in the pool. The Association has always been in compliance with all State of New Mexico swimming pool codes. Our turnover rate last year was 5.5 hours. However, when the pump room was remodeled about 1 ½ years ago, a variable speed high-efficiency pump was installed by Kokopelli. This allows for an increase or decrease of the turnover rate by altering the speed of the pump. The speed can be altered to change the turnover rate to five hours if needed. The two-inch piping is large enough to carry all the water at the pump's maximum flow rate. Therefore, in Mr. Busch's opinion three-inch piping to the pool skimmers is not needed.

The latest Code for pools requires that there be a lift available to make pools accessible to handicapped users. Currently, this is not being enforced. However, the suggestion was made that we should prepare the mounting point in our concrete to accommodate a lift in the future and that we should run conduit to that point from our electrical equipment. The conduit would be encased in the new concrete. If this is done and if a lift is deemed necessary in the future, all of the necessary infrastructure would be in place to install it. The additional cost for this work would be about \$400-\$500.

The current bids do not contain the cost for replacing the concrete in the upper patio and BBQ area. Lee-Sure Pools Inc. has given a price of \$8,300 for that work.

Mr. Bontrager indicated that if the costs for making the pool ready for handicapped access and for replacing the upper patio concrete were added to the Lee-Sure Pools Inc. bid, the Capital Reserve Fund would be reduced to about \$42,000.

After further discussion, the following motion was made, seconded, and passed unanimously:

- The pool work shall be awarded to the lowest bidder, Lee-Sure Pools, Inc.
- The project will include the items covered in the Lee-Sure Pools, Inc. bid of 12/4/2015 plus the modifications necessary to make the pool handicapped-accessible at a later date and include the replacement of the upper patio concrete.
- The project will be paid for from the Capital Reserve Account (less the 2015 down payment of \$9,664) and by applying about \$8,500 from the 2015 Operating Account to the total cost.

Clubhouse Manager's and Grounds Maintenance Report (Pat Jackunas): Clubhouse Manager Joan Conrow could not attend. President Jackunas had asked Ms. Conrow about the advisability of cleaning the clubhouse on a regular basis. Ms. Conrow had recommended cleaning the Clubhouse weekly during the summer season when the pool is open. Rates for cleaning would range from \$25 to \$35 per hour. Cleaning could be done for about \$150 per month during off-season, when less frequent cleaning would be required, and \$350-\$450 per month during the pool season. This matter will be considered at a future Board meeting.

Fees for Use of the Clubhouse: The Board discussed a tabled motion made and seconded at the November Board meeting that the EPCSA charge a \$75 fee for use of the Clubhouse for meetings and functions. The motion had included the following components:

- All Estancia Primera (EP) residents, or groups sponsored by EP residents, other than the groups listed below, would be required to pay a \$75 usage fee for using the Clubhouse conference room, kitchen, and other facilities for a meeting or function of any kind.
- There will be no usage fee for the following groups, entities and meetings:
 - EPCSA Board of Directors or subcommittees of the Board
 - EPCSA ARB
 - EPCSA Annual Meetings or special meetings
 - Official meetings of neighborhood subdivision homeowners associations
 - EPCSA Women's group.
- The \$75 usage fee will be paid in advance to the Clubhouse Manager by check with the check being made payable to the EPCSA.
- The swimming pool area may not be reserved for functions.
- All groups using the Clubhouse conference room and associated facilities will be expected to leave the area in the same condition in which they find it.

After further discussion, the Board voted unanimously in favor of the above motion. The new policy will be posted on the EP web site and will be applied to any owner or group reserving the clubhouse after the date of the Board meeting of December 11, 2015.

Homeowner Comments: A homeowner noted that some of the tiles at the front of the Clubhouse entry (outside the wooden doors) were cracked and suggested that the Board consider replacing them.

Old Business: There was none.

New Business:

Rentals: The Board noted that the City of Santa Fe was likely to remove the current cap on the number of short-term rentals allowed in the City. There was a concern that this might lead to short-term rentals becoming prevalent in EP. The Board further noted that Section 6.21 of the EPCSA CC&Rs states in pertinent part as follows: “**Renting.** *No unit may be rented or leased for an initial period of less than one month.*” The Board noted further that some of the nine EP neighborhood subdivisions had longer minimal rental periods of three months stated in their CC&Rs. In such cases, the more stringent covenant would apply and EPCSA covenants would supersede any City rules and requirements. The Board noted that preventing short-term rentals depended on individual owners reporting such occurrences. The matter could then be addressed by the affected neighborhood subdivision and by the EPCSA.

Parking at Estancia Primera Entries: President Jackunas had received a complaint from a homeowner about drivers parking at the two EP entries. The Board noted that in most cases these were drivers along Hyde Park road stopping temporarily to answer or return cell phone calls. The land at the entries is probably not EP common property and the Board felt that nothing could be done to address this matter.

Recent Burglaries and Attempted Burglaries in Estancia Primera: The Board discussed the recent spate of home break-ins in EP in the period leading up to the Thanksgiving holiday. President Jackunas had received a note from a homeowner suggesting that a Security Company be hired to patrol the neighborhood during holiday periods. However, the Board felt that this would be too costly and that it would likely be ineffective because of the large area involved and the presence of several arroyos within EP. Some Board members suggested that installing visible surveillance cameras on homes might help deter potential burglars.

Adjournment: The meeting was adjourned at 9:55 a.m. by a unanimous vote of the Board members.