

THE SUN MESA TOA NEWSLETTER
SEPTEMBER 2010

Bylaws Amendment

The Board of Directors has decided to try again to amend one aspect of our current Bylaws to provide for more flexibility in holding the required Annual and Budget Approval meetings. A previous Board put forth a proposed amendment in 2006, but the number of Association Members in attendance, plus those represented by proxy, was only 45 whereas our Bylaws stipulate that an amendment of the Bylaws must be approved by 67% or 59 owners for Sun Mesa.

Legal council has advised as follows: “The Colorado Revised Nonprofit Act, at C.R.S. 7-127-109 allows the Association to conduct a member meeting completely by mail”. Because of the convenience of this approach and sparse attendance at recent membership meetings, we intend to go forward with a mail-in ballot rather than a physical meeting.

Our current dilemma whereby we are required to hold 2 meetings each year stems from 2 requirements in our governing documents; the first is Section 3.2 of our 1993 Bylaws, and the second is from Section 38-33.3-303 of the Colorado Common Interest Ownership Act, which is the Colorado statute that governs how common interest communities must operate:

Bylaws Section 3.2 Annual Meetings

The first annual meeting of the Members shall be held within one year of the date of incorporation, and each subsequent annual meeting of the Members shall be held during the same month (emphasis mine) of each year thereafter at a place, date and time, within the State of Colorado, as the Board of Directors may determine.

Sun Mesa’s first annual meeting was held in May 1994, so our current Bylaws obligate us to hold subsequent annual meetings in that month, as we have been doing.

CCIOA Section 38-33.3-303, paragraph (4) (a)

Within ninety days after adoption of any proposed budget for the common interest community, the executive board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the unit owners and shall set a meeting of the unit owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the bylaws. The executive board shall give notice to the unit owners of the meeting as allowed for in the bylaws.

Unless the declaration requires otherwise, the budget proposed by the executive board does not require approval from the unit owners and it will be deemed approved by the unit owners in the absence of a veto at the noticed meeting by a majority of all unit owners, or if permitted in the declaration, a majority of a class of unit owners, or any larger percentage specified in the declaration, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the executive board and not vetoed by the unit owners must be continued until a subsequent budget proposed by the executive board is not vetoed by the unit owners.

A meaningful budget for the following fiscal year, which for Sun Mesa coincides with the calendar year, cannot be prepared until late September or November. Therefore, we have been holding recent Budget Approval meetings in November.

The proposed amendment to our Bylaws will substantially read as follows:

I. Repeal and Restatement. Article III, Section 3.2 is hereby repealed in its entirety and the following Article III, Section 3.2 is substituted:

(a) Annual Meetings. An annual meeting of the Members shall be held during each of the Association's fiscal years, at such time, date and place as determined by the Board. At these meetings, the directors shall be elected by the Members, in accordance with the provisions of the Bylaws. The Members may transact other business as may properly come before them at these meetings. Failure to hold an annual meeting shall not affect the validity of any corporate action and shall not be considered a forfeiture or dissolution of the Association.

The plan is to discuss the mail-in ballot at the Budget Approval meeting, which will be held in late November, and clarify any issues and respond to Members' questions. Ballots will be mailed out to all owners soon after the November meeting. If the amendment is approved, the sitting Board, with changes as necessary, will serve until November of 2011 when a combined Annual and Budget Approval meeting will be held.

The Board of Directors unanimously urges Association Members to respond and support the mail-in ballot when it arrives in late November. In the interim, feel free to discuss the pending amendment with any of the Directors listed:

President, Phil Book
Vice President, Frank Chuba
Treasurer, Al Schwecke
Secretary and ACC Chairman, Bob Dyster
Board Members at large, Bob Haubrich and Dale Meese

Planned Maintenance Projects

The cyclical and special maintenance projects planned for 2010 have been completed.

These projects include the following:

1. Phase 2 (Buildings 7-11) of the gutter and downspout tune-up and repair project.
2. Phase 2 (Buildings 7-11) of the 5-year painting cycle.
3. Phase 1 (Buildings 1-6) of the stucco repairs.

4. Removal and selective replacement of dead/dying shrubs. Clearly, this effort did not solve all of our current problems, plus new problems continue to develop. With 15 or so years of uncontrolled growth, many lots now have too much vegetation to maintain healthy flora. There is at least one ornamental tree that must be replaced next spring and there are 3 crabapple trees that are infected with Fire Blight – these will require careful pruning of the infected branches when the trees are dormant. It follows that shrub and tree care will continue to be an important maintenance item in the future.

Architectural Control

As prescribed by our Declaration, Section 6.1, Architectural control of our community is under the jurisdiction of the Architectural Control Committee (ACC). The current members are Bob Dyster, Chairman, and Roger Browne and Wendell Hunemueller. The ACC is charged to exercise its best judgment “to determine that all structures, improvements, construction, decoration and landscaping on the Property conform to and harmonize with the existing surroundings and structures”. Please help the committee do its job by informing them well in advance of any plans you might have that affect surroundings and structures. Compliance with ACC guidelines will, no doubt, enhance property values over the long term.

One of the reasons that I have included this paragraph is the recent proliferation of Direct TV antennas throughout our community. They have had an aggressive marketing campaign, including compilation of personal addresses (I get a personally addressed

promotional solicitation about once each week). The independent installation contractors appear to be even more aggressive than Direct TV; as the evidence shows, they will readily scramble up on roof tile or bolt an antenna mast and support struts into the stucco. There are almost always alternate installation locations, but many of the independent contractors just want to get the job done and get out. Consultation with the ACC might result in a better choice from an architectural control viewpoint as well as an equally good choice for reception.

North Entrance Congestion

Sun Mesa's north entrance has become a busy place in the morning hours since District 20's decision to make that vicinity a school bus stop. Pedestrians and motorists must be sure that they are not individually or collectively obstructing the entrance for Sun Mesa residents, or service contractors who want to enter or exit before the bus arrives. With the later sunrises that we are experiencing at this time of year, the issue is potentially more serious since much of the waiting period will be before dawn. Please be careful and thoughtful of others – motorists of pedestrians and vice versa.

Email Issues (Repeat Item)

Email can be an efficient and timely way to distribute important information to many Sun Mesa residents. That practice is widely advocated by legal advisors, property managers, and Colorado legislation governing how HOAs should operate. However, it seems that each time I attempt to send a timely message using our email list, a lot of it is undeliverable because the address I had was not valid or the recipient doesn't recognize the sender. If you (owner or renter) would like to receive potentially important Sun Mesa email from me or Kerry Cantrell, please ensure that I have your current address and you are set up to recognize the sender (pbook@earthlink.net or Kerry@zandrmgmt.com).

Sun Mesa Rules and Regulations

For new owners, renters, and owners who have misplaced their copy of our Rules and Regulations, remember the Sun Mesa website at www.sunmesatownhomes.com as a source for this and other useful Sun Mesa information, including financial reports and previous newsletters. The Visitor Parking Regulations beginning on page 6 is an important section of the Rules and Regulations. Every resident is entitled to be able to host a dinner party or card party without directing visitors to distant lots – that can't happen unless all residents comply with the parking regulations!

Z & R Property Management

As the property manager, Z & R implements the Board's decisions and passes architectural submissions on to the ACC. Any Association question or concern, including landscaping issues, should be forwarded to Z & R at (719) 594-0506, or by email. Any homeowner who has a problem, comment or suggestion is asked to submit a letter to Z & R for proper follow-up and Board review. The address for correspondence is 6015 Lehman Drive, Suite 205, Colorado Springs, CO 80918. Email can be sent to Kerry@zandrmgmt.com and faxes can be sent to (719) 594-0473.

If you witness a violation of the Declaration or the Rules and Regulations, please report it to Z & R by documenting what you see in writing, signing the letter and mailing it to Z&R Property Management. Faxes or emails are also perfectly acceptable. Anonymous complaints cannot be acted upon; please include your name and address in any complaints - it will not be divulged.

Phil Book
President