

Further Explanation about What Happened During the September 4, 2024 Meeting And What is Happening Now and Why

During the September 4, 2024 Board Meeting to discuss the Swimming Pool Renovation, Priscilla Elliott, Secretary/Treasurer moved to elect Rehj Hoeffner, Member at Large as Secretary/Treasurer and Rehj Hoeffner moved to elect Priscilla Elliott, Secretary/Treasurer to Vice President. Bryan Foley correctly noted that such actions had not been properly noticed and therefore such action was invalid.

This brought previous elections of officers and appointments of directors under scrutiny. The last valid Board was:

- Kenny Venable, President, appointed in January of 2021
- Priscilla Elliott, Secretary, appointed in 2013
- Teresa Peacock, Treasurer, appointed prior to 2021
- Paul Combest, Member at Large, appointed in 2008
- Tim Collins, Member at Large, appointed prior to 2021

In early 2024 when Epi became President, that meeting had procedural errors in that it was not noticed properly, nor was an agenda published. This made his appointment, invalid.

In August 2024 and September when interviews were held and subsequent appointments made for interested board positions, those meetings had procedural errors in that they were not noticed properly, nor was an agenda published. This made the appointment of Rehj Hoeffner and Bryan Foley invalid.

The Legal Stuff:

In September 2021, Texas passed a law regarding properly noticed meetings for homeowner's associations (HOAs) as governed by the **Texas Property Code, Chapter 209**, specifically Texas Property Code 209.0051. Effective September 2021, all HOA meetings must be properly noticed with an agenda. The two remaining board members, Paul Combest and Priscilla Elliott, were appointed to the board prior to the passage of this law. Therefore, their appointments were not subject to this new requirement at the time they occurred. Here's a breakdown of the key provisions:

1. Open Meetings Requirement:

- Under **Section 209.0051 of the Texas Property Code**, HOA boards are required to hold open board meetings. Homeowners must be allowed to attend these meetings, except when the board goes into executive session for certain confidential matters (e.g., legal consultations, personnel issues, or contract negotiations).

2. Notice of Meetings:

- **Section 209.0051(e)** specifies that written notice of a board meeting must be provided to homeowners at least **72 hours in advance** of the meeting. The notice must:
 - Include the **date, time, location, and general subject** of the meeting.
 - Be posted in a location accessible to homeowners, such as on the HOA's website, or if no website is available, at a conspicuous location in the community.
 - The notice can also be sent via email to homeowners who have consented to receive electronic communication.

3. Agenda Requirements:

- The agenda for a board meeting must generally describe the subjects to be discussed or voted on during the meeting.
- **Action without notice** on certain major decisions, like levying special assessments, elections, or amending the governing documents, is prohibited unless proper notice has been given.

4. Minutes and Recording:

- Texas law requires that minutes of board meetings, including summaries of executive session actions, be maintained and made available to homeowners upon request.

These regulations ensure transparency and fairness in HOA governance, helping homeowners stay informed and involved in decisions that affect their community.

Moving Forward:

Our HOA bylaws (Article 3, Section 3.5) allow for the board to be reconstituted without a quorum under certain circumstances. This provision is critical at this juncture, given the urgency of addressing the large pool renovation project. When this issue came to light after the last meeting, Priscilla Elliott met with our attorney, Mr. St.Clair and he advised that reconstituting the board is essential for moving forward with this large pool renovation contract. Delaying action could result in financial or legal complications for the association. He emphasized that the HOA must have a functioning and legally compliant board to authorize and oversee the significant renovation work required for the pool.

Why Reconstituting the Board is Necessary:

1. **Large Pool Renovation Contract:** The association is about to enter into a substantial contract for the pool renovation, and without a fully functioning board, this project cannot move forward effectively.
2. **Legal and Financial Obligations:** Without a properly constituted board, the HOA risks potential legal and financial setbacks, particularly concerning the execution of major contracts.
3. **Bylaws Compliance:** Reconstituting the board ensures compliance with both our bylaws and Texas state law. Moving forward, it will be imperative that all meetings and

appointments are noticed properly, following the guidelines in Texas Property Code 209.0051.

This reconstitution will provide the legal framework for handling urgent matters, such as the pool renovation, while ensuring the board is compliant with the latest state laws and the HOA's governing documents.

What Happens Now?

A Special Board Meeting has been arranged by Priscilla Elliott, Secretary/Treasurer to be held on October 16, 2024 at 6:00pm. The notice and agenda for this meeting was made available on the website on October 3, 2024 and signs were posted on Whisperwood Boulevard on October 4, 2024.

Paul Combest, being the ranking board member will Chair this Special Board Meeting as Acting President. He will oversee the nominations and appointments of 3 new board members. Paul and Priscilla are not obligated to nominate or re-appoint the previous invalid board members. As long as the meeting was properly noticed 10 days in advance, provided a proper agenda, and minutes are recorded, their actions, are within the guidelines of our bylaws and as well as State of Texas law. Two of those 3 requirements have been met and the minutes will be published on the website within 30 days, meeting all 3 requirements for a valid board meeting.

How will it Work?

When this meeting was noticed to the membership, a call for any interested parties went out. Those interested were asked to submit short bios and qualifications and those that are received will be uploaded to the website for the membership to view. From those who showed interest Paul and Priscilla will make nominations to fill the vacant board seats followed by a vote which must be unanimous. A tie vote will result in a no vote for the nominee.

CLARIFICATION: When there are only two members voting and the result is a tie, it means the motion **fails** and is considered a "no" vote. This is because a tie does not provide a majority in favor of the motion, which is required for it to pass.

In parliamentary procedures, if there is no majority (i.e., more "yes" votes than "no" votes), the motion does not carry and is defeated by default. Therefore, in the case of a tie vote between two board members, the motion would not pass.

This takes care of 3 new members, but the meeting notice said 4.

After the board has been properly reconstituted, Paul Combest plans to resign his position as Member at Large and the new President, having just been appointed to the Board and elected, will need to fill his vacancy.

Questions?

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