

United Lost Lake Property Owners Association  
Special Meeting – By-Laws  
November 13, 2008  
7:00 PM

The meeting was called to order at 7:00 pm by Tom Wendling, President. Tom stated that this special meeting was called in order to answer questions regarding the By-Laws. Mr. Phil Nye, ULLPOA lawyer, was present to answer these questions.

**Roll Call:**

Present:

Crystal Pohlman  
Sue Hill  
Mick Kazmerski  
Lois Lytle

Mike Robinson  
Tom Wendling  
Marilyn Mancini

Absent:

Sandy Lewis  
Don Finn

**Motion to Accept Agenda:**

A motion was made by Mike Robinson to accept the agenda. Crystal Pohlman 2<sup>nd</sup> the motion. This motion was put to a roll call vote with the following results: Voting yea – Crystal Pohlman, Mike Robinson, Sue Hill, Mick Kazmerski, Lois Lytle, Marilyn Mancini. Voting nay – none. Motion unanimously approved.

**Question #1:** Is it possible to grandfather in “contiguous lots” for billing purposes and still omit it from the By-Laws?

**Answer:** The answer to that is yes but it should be specifically provided in the By-Laws that the owners of multiple lots as of a specific date shall be charged one annual charge. Legally it can be done but a specific cut-off date needs to be set and spelled out in the By-Laws.

Mike Robinson asked that if one Board gave someone something can another Board take it away.

Mr. Nye stated that another Board could take it away. Mr. Nye stated that a rule in the By-Laws could not override what the Covenants state. He went on to state that By-Laws are a simple set of rules to govern the Board and Covenants govern the land. He stated that By-Laws could be changed by a two-thirds vote of the Board or a quorum and felt that the By-Laws needed to be flexible. He also stated that the Covenants should not be too rigid due to the difficulty in changing them.

**Question #2:** Do property owners have to approve “all” future By-Law changes?

**Answer:** Mr. Nye stated that his recommendation would be to give the Board the right to amend the By-Laws by a two-thirds vote of the elected Board rather than by a quorum or a majority of the Members at any regular or special meeting held for that purpose. This would allow some flexibility and yet means that you could not change them on a “whim”.

**Question #3:** Is the United Lost Lake Property Owners Association considered a new association? If so, how can the existing By-Laws be dissolved without informing the Association Members?

**Answer:** Mr. Nye stated yes, that the Articles of Merger from Illinois Secretary of State which were filed in April of 2008 under the Plan of Consolidation of November 2007 and adoption of the By-Laws which we are working under now supercedes the existing By-Laws of the merging corporations.

**Question #4:** Knowing that you have given “your legal opinions”, please provide a past legal precedent; whereas, “grandfather clause” (as it pertains to a contiguous lot variances with zero or ½ assessments) has been sanctioned? A fair, equitable and standardized Dues & Assessments structure is needed within our community, what affect will the “grandfather clause” have on current situation?

**Answer:** Mr. Nye stated that at the present time he can find no law statutory on this matter. It is still his opinion that it’s legal and stated he could look into the matter further if so requested.

Mike Robinson stated that there is an attempt to equalize how people are paying for property as a revenue base or dues and assessments because things are going to cost more in the future. One of the things that were looked at was whether or not having variances with contiguous lots. Could these variances be taken away from people who were previously granted these variances?

Mr. Nye stated that a new Board would have the right to take those variances away.

**Question #5:** Our current Board has adopted an office protocol for “inspection of record” which is in direct conflict with the proposed By-Laws. Please provide the legal requirements for inspection of records pursuant to the IL State Statues to ensure that the ULL Association is in legal compliance with state regulations.

**Answer:** The only Illinois Statutory Authority on not-for-profit corporations is 805ilcs105/107.75 requires corporations and the Board to keep correct and complete books and records and minutes of members, Board and committee meetings. These may be inspected by any member at “any reasonable time”. The proposed by-law seems more in line with the statue, in our opinion, than the written protocol. It seems to me, that the State of Illinois has clearly said that its got to be reasonable and its not reasonable if they have to wait 30 days and have to pay a big fee. Your job is to make yourself available

under Illinois law. He felt the protocol seems a little complex to him. You're not trying to hide what you do, its public record. The statute clearly says that you've got to make it available to members and he thinks it's a good law. He felt that the by-laws could be simplified even more. He didn't feel it should be an issue, the right of members to see things. He stated that we have certain protections and if it's a 400-page document and the secretary has to duplicate it he felt a reasonable fee should be charged and it should be during normal business hours.

Crystal stated that the office protocol was designed for the safety and protection of our records and the safety and protection of our office personnel. The part about the inspection of records or the duplication of records could be adjusted. What is more important to her is the safety and protection of those records so they can't be destroyed and so the girls in the office have protections as well. She asked if the protocol regarding people coming in and ask questions about records or to see them should be dropped from the office protocol since its in the by-laws and just deal with the personnel and security issues.

Mr. Nye stated that absolutely could be done also stated that if the Board decided, the whole by-law could be basically the State Statue which spells it out which would give protection to the personnel.

**Question #6:** Regarding Article III, Format for Establishing Annual Charges: In the paragraph that begins "When any Member shall fail..." regarding the bearing of interest from January 1<sup>st</sup>, shouldn't that be "shall bear interest from due date"?

**Answer:** Date interest begins is purely a decision to be determined by the Board or members and accordingly placed in the By-Laws.

**Question #7:** Should the Board approve the final form of the By-Laws before mailing them to the members for their approval?

**Answer:** The Board under the existing By-Laws has the legal power to amend the By-Laws without such mailing or approval. If they choose to consult the membership before making the amendments final, is purely a Board decision.

Mike Robinson asked that if we agree, as a Board on the By-Laws as written we can just mail them to the property owners and state that these are the By-Laws that have been approved by your Board. Mr. Nye stated, "yes" if that is what you choose. And he suggested that in conjunction with those By-Laws when you get them adopted, to spend a few bucks and get them printed into a book and maybe distribute that.

Mike then asked if the members were told verbally or if it was published that they would have a chance to vote on By-Laws, if they're told that and it's published, but it wasn't approved by anyone that said "okay" we're going to let everyone vote on it, does that mean that they must be given an opportunity to vote on it?

Mr. Nye stated no. Every legal document that he was given to file and examine, you have the right to amend the By-Laws. The de-facto thing that's of record states that the Board has a right to amend them. Tom Wendling stated that when we had our committee meetings that a copy of the By-Laws was going to be sent out to people. This was not something that was decided on by a Board or by either Board, this was just part of the committee. Mick stated that there were a lot of issues discussed and that we were going to elect representatives by district, and what happened to that. It was voted away. Marilyn stated that this is what people were told but we didn't comply with that. Mr. Nye reiterated that even though people were told they would have an opportunity to vote on the By-Laws it is irrelevant now. He stated that when you merged these two prior corporations, that "all prior bets are off". Sue Hill stated that we are operating under Rev. I and that document states that these By-Laws may be amended by a two-thirds vote of the Board of Directors.

**Question #8:** Does every lot owner get 1 vote when the covenants are mailed?  
Example: If a lot owner owns 5 lots does the member then get 5 votes?

**Answer:** Mr. Nye stated that each lot owner gets one vote for each lot owned.

**Question #9:** Can the covenants be changed more often than just every 10 years?

**Answer:** The covenants may be changed at anytime by the owners of the majority of the lots.

**Question #10:** The age for operating golf carts, ATVs, etc. on our roads is 16. Do the young people also need a driver's license issued by the State of Il.

**Answer:** Mr. Nye stated that Ogle County Sheriff's Office confirmed that they must be 16 years of age and have a valid Illinois license to be on the roads. If you have private roads does it apply to those? He doesn't have the answer to that but could check on it. He then asked would you really want unlicensed drivers on your road out here? He stated that it seems clear for your insurance protection and the protection of your citizens that you would like people with a license driving motor vehicles. He stated that he felt it would be a bad idea to place unlicensed people in motor vehicles.

**Question #11:** In the By-Laws that you have posted on the website dated September 12/2007. Under Article 3 Section 6 "Membership" you have many sentences lined out pertaining to those items. Why?

**Answer:** Mr. Nye stated he has no opinion on this.

**Question #12:** Article XIII, Amendments: "Notice of proposed amendment(s) shall be mailed "...isn't the term "delivered" used elsewhere in the By-Laws and should this be changed to say "delivered vs. mailed", for consistency reasons?

**Answer:** Mr. Nye stated that it could be delivered or mailed and that would be all right.

**Question #13:** Article I(i): The last sentence regarding the restriction of spec homes applying to the New Landing development is a duplication of the statement made in the previous sentence. Shouldn't the last sentence be deleted?

**Answer:** Mr. Nye stated that in a letter to the Board, Article I(i) restriction should probably be a part of the rules adopted by the Environmental Control Committee as set forth in the Covenants. He stated that rules regarding construction should be put into the rules that are by the committee and this is set out in your Covenants not try to by-law it in. Powers can be given or taken away from the ECC and deal with it directly in the Covenants regarding construction.

**Question #14:** Regarding Article IV, Section 1, Transfer: Please explain the meaning of the last sentence: “**Note: Lot owners packet with form.**”

**Answer:** Mr. Nye had no opinion on this.

**Question #15:** Article V, Section 2, Annual Meeting: since the board passed a motion at their November meeting to change the regular monthly meetings to the 3<sup>rd</sup> Saturday, should this sentence be revised to state that the 1<sup>st</sup> Annual Meeting in 2008 to be held on 2<sup>nd</sup> Saturday (which it was), and then the Annual Meeting beginning in 2009 will be held on the 3<sup>rd</sup> Saturday?

**Answer:** Mr. Nye had no opinion on this.

**Question #16:** Article VI, Section 7, Meeting of the Board of Directors: Special Meetings require at least five (5) days notice to Board Members. However, in Article V, Section 4, special meetings require at least ten (10) days notice to members. Is this correct?

**Answer:** Mr. Nye stated the second is a members meeting the first is a directors meeting so they are two different boards. There are different times but it is two different boards. One is the board, five days and that should be a short term, maybe even shorter if you like. And the members special meeting – 10 days- because it takes a while to get all the members notified.

**Question # 17:** Regarding Article V, Section 2, Annual Meeting: since more ballots are being counted as a result of the two POAs being united, and because it took so long to count the 1<sup>st</sup> Annual Meeting ballots, can this be revised to reflect a deadline earlier than the opening of the Annual Meeting? The By-Laws do not indicate that the ballots have to be counted at the Annual Meeting.

**Answer:** Mr. Nye had no opinion on this.

**Question #18:** Article VI(i), Standing Committees (g): Is a Utilities Committee necessary? The purpose of this committee does not seem necessary, as the Lost Lake Utility District was formed and utility updates/issues are provided by the LLUD.

**Answer:** Mr. Nye had no opinion on this.

**Question #19:** Article VI(i), Standing Committees (g): What is the purpose of the Communities Service Committee?

**Answer:** Mr. Nye had no opinion on this.

**Question #20:** Article VII, Section 5, Treasurer: Should the Association Secretary be added as a check counter-signer?

**Answer:** Mr. Nye had no opinion on this.

Tom Wendling thanked Mr. Nye for coming to this meeting.

Mike Robinson made a motion to adjourn at 8:12 pm. Lois Lytle 2<sup>nd</sup> the motion. Motion unanimously approved.