CHARBONNEAU COUNTRY CLUB
BOARD OF DIRECTORS
RESOLUTIONS February 4, 2020

IN RESPONSE TO NOVEMBER 2019 MEMBER PETITION

At a regular meeting of the Board of Directors of the Charbonneau Country Club held on February 4, 2020, at the address of: 32000 SW Charbonneau Drive, Wilsonville, Oregon 97070 at 2:00 pm, the Board states as follows:

A meeting of the Board of Directors was convened at the time, date, and location set out above;

The Association Secretary, by signing below, attests that Board members received notice of the meeting (or by their attendance waived notice), and that a quorum of Board members was present either in person or by telephone conference;

The Association is organized and empowered to exercise all of the powers and privileges conferred to it by the Covenants, Conditions and Restrictions for the Charbonneau Country Club and its subsequent amendments (the "CCRs"), the Association's Bylaws, and the Planned Community Act (ORS Chapter 94) to administer, manage, and operate the Association for the benefit of its members; and

Bylaws Article II, and ORS 94.640 provide that the Board of Directors has all of the powers and duties necessary for the administration of the affairs of the Association and give the Board the authority to adopt and amend on behalf of the Association rules and regulations governing the conduct of persons and operations as it may be necessary and appropriate to assure the peaceful use and orderly enjoyment of the property. The Bylaws Article V provides that "[t]he business and affairs of the corporation shall be managed by Board of Directors," and that the Board has the power "[t]o exercise for the Club all powers, duties, and authority vested in or delegated to the Club, except those reserved to the members in the Covenants." Further, ORS 94.640 provides the Board with the authority to "act on behalf of the association except as limited by the declaration and the bylaws."

NOW THEREFORE, BE IT RESOLVED AND CONFIRMED THAT IN RESPONSE TO THE NOVEMBER 2019 MEMBER PETITION DEMANDS AS DESIGNATED AS FOLLOWS:

Petition Demands for Votes at Special Meeting to Override Board Decisions. The Board concludes, under the advice of legal counsel, that votes that may be taken under Bylaws Art. IV Sec. 8 at an Association meeting about issues that are properly the jurisdiction of the Board to decide, or that require a process of amendment to the governing documents, would have no legal effect. The Board concludes that the matters set forth in the Petition are either in the jurisdiction of the Board alone to decide or require additional procedures to come before the membership as amendments to the CCRs or Bylaws, or both.

Petition Issue #1: Transparency regarding the plans for a Golf Club transaction and rebuilding the Annex. The Board is committed to transparency in its decision-making processes to the CCC community.

I. **Golf Club Transaction**: In respect of the transaction being contemplated and negotiated between CCC and the Charbonneau Golf Club (CGC), the Board hereby resolves to:

a. Discuss and make the decision to enter any nonbinding memorandum of understanding with CGC in an open board meeting.

b. If the Board goes forward with a transaction contract with CGC, ensure that any transaction contract with CGC will include (i) the right for CCC to examine financial, maintenance, and service and management contracts, and operations records regarding the Golf Course and water company operations and property condition, and (ii) a due diligence contingency allowing for termination of the contract if CCC is not satisfied with its due diligence findings or other studies of the property and the Golf Course and water company operations.

c. Exercise due care in performing and evaluating due diligence regarding any transaction or other business relationship with CGC. And as part of the Golf Course property evaluation, the Board will order a reserve study of the Golf Course and the buildings on the property as part of the evaluation of potential future costs of maintaining and replacing Golf Course improvements. The Board will continue to work with legal counsel during due diligence and regarding negotiations of draft contracts, business formation documents, and the like.

d. Present to the community summaries of feasibility studies, financial impact studies (including assessment impact studies), and basic terms of proposed entity structure and/or contracts with CGC before the Board's debates and votes on final resolutions

regarding entering a merger or other business relationship with CGC and executing documents to complete any transaction approved by the Board. The Board also plans to continue its community outreach gatherings about the CGC transaction plans as they evolve.

e. Keep financial records, business plans and other information acquired during such due diligence that belong to CCG confidential and keep negotiations confidential pursuant to ORS 94.640(8).

f. Continue to follow the Associations Records policies regarding the due diligence outcomes and summaries thereof, and regarding finalized transaction documents and contracts and Board resolutions.

II. **Annex Purchase, Demolition, Design and Financing**. In respect of the purchase, demolition, redesign, construction and financing of replacement Annex with a New Activities Center, the Board hereby resolves to:

a. Continue its work with project consultant, BC Group, and architect, Access Architecture. Continue to make committee reports on project work and advice from project consultants part of the Board minutes.

b. Task the Village Center Development Task Force Committee with the final design review of the new activities center. Continue to share the Committee's meeting schedules in the Villager and the CCC website and hold all Committee meetings open to members. At least one meeting of the Committee will be properly noticed regarding the Activity Center's plans prior to the final resolution of the Board adopting the Committee's recommendations. The Board also plans to continue its community outreach gatherings about the Annex project and plans as they evolve.

c. Make Annex purchase records, demolition and New Activities Center contracts and plans, and once finalized, design and reconstruction plans, available for Association Records review in accordance with the Records Policy of the Association.

d. Work with legal counsel to review construction contracts and contractor and project insurance policies, and to negotiate any construction loan and mortgage. Ongoing negotiations with any contractor or lender will remain confidential in accordance with ORS 94.640 until the board is ready to resolve to enter a final contract after discussion in an open board meeting. After final contract terms have been reached, the Board will discuss and debate the terms of the draft contract and proposed loan terms in an open meeting of the Board before the directors vote on entering a construction agreement or close on a loan.

e. Make basic terms of new activities center financing available to the community prior to the Board's passage of an authorizing resolution to commit to financing at an open

board meeting duly noticed. The Board intends for the financing to be secured not by common property owned by the Association but by assessment income stream.

Petition Issue #2: Capping the Board's Authority at $1,000,000 Financial Commitment in respect of the Golf Club or the Annex.

The Board recognizes its serious responsibility to care for the common property of the Association and declines to voluntarily abdicate or limit the authority to make financial decisions on behalf of the community granted to the Board under the CCRs, Bylaws and the Planned Community Act.[1] To limit the authority of the Board by a cap as suggested by the petitioners would require a CCRs and Bylaws amendment, particularly an amendment to CCRs Article V, Section 1(c) and Bylaws Article VII, Sections 1 and 2.

The Board declines to recommend to the membership the suggested Bylaws and Declaration amendment on this Issue #2. It would require two-thirds of the directors' approval to refer a proposed change to the Bylaws to the members for ratification and adoption.[2] It would require a majority of the directors' approval to refer a proposed change to the CCRS to the members for ratification and adoption.[3] With advice from legal counsel, the Board has determined that a vote at the Special Meeting by the members as suggested in the Petition under Bylaws IV, Section 8 would have been void because such a vote does not fulfill the procedural requirements for a Bylaws amendment. Proper procedures to amend the Bylaws must be followed before any Bylaws amendment vote by the membership could be taken on the petitioners' proposed $1,000,000 cap.

Issue #3: Amendment and Restatement of the CCRs and Bylaws and Rules and Regulations.

The Board resolves to form a Governing Document Committee no later than June 1, 2020 to study whether it is feasible and desirable to amend and restate the Club's CCRs and Bylaws. The committee will consist of five Board appointees with a minimum of two board members, who will be appointed by the Board after considering applicants for the committee positions. The Board will require the Governing Document Committee to share its findings and possible recommendations with the Board no later than December 31, 2020.

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[1] See, e.g., ORS 94.630(f), (q), and (r).

2 Bylaws, Article XI (A).

[3] ORS 94.590(2)(a), which also allows for an amendment to the CCRs to be proposed by at least 30 percent of the owners in the planned community.

Issue #4: Stop Annual Increases to HOA dues above the CPI without a Vote of the Members.

The Board hereby clarifies and officially interprets CCRs Article VI, Section 3 *Basis and Maximum Annual Assessments*, which set the base for 1977 at $25, to mean that the maximum monthly assessment at any given time is determined by applying *cumulatively* the Consumer Price Index ("CPI") referenced in Article VI, Section 3. The CCRs provide that the CPI increase in the maximum allowable monthly assessment is to take "into consideration prior increases in such maximum, if any." The "if any" caveat in this statement recognizes that the CPI does not necessarily increase every year; if there were *de*flation recognized in the CPI, the maximum allowable assessment would not increase for that year. The logical reason behind including the CPI adjustment in the assessment provision of the CCRs is to allow the maximum allowable assessment to keep up with inflation. The intention is for assessments to have the same buying power now and in the future as the $25 "MAXIMUM" assessment did in 1977.

The maximum monthly assessment for any given year through 2020 is set forth in the attached Schedule 1 to this Resolution. The CCRs do not require the Board to increase assessments every year or lose the CPI adjustment to the maximum allowable assessment for the future. If in any given year the maximum monthly assessment were reached, in the next year without a vote of the membership the Board could only increase the assessment by the percentage indicated in the CPI.

The Board's interpretation is supported by legal analysis obtained by the Board in October 2008. The legal analysis included the conclusion that no Oregon court had rules on the matter, but courts in other jurisdictions had interpreted similar language as intending a cumulative increase in the assessment. This 2008 letter of legal advice is included in this Resolution as Schedule 2. The Association's current legal counsel agrees with the conclusion of prior counsel. The Board has been operating under this interpretation and advice of counsel for the last 12 years.

Applied to 2020, the CPI adjustment means the maximum monthly assessment is $105.48 per Lot (without the need for a membership vote); the 2020 budgeted amount per month per Lot is $77.

By: Pat Tewell, Secretary

Date: February 24, 2020

Schedule 1

Maximum Allowable Monthly Assessments by Year

Charbonneau Country Club
Cumulative CPI Increase
CPI-U, US City Average, All Urban Consumers

Year	CPI	% Increase /decrease	Rate	
1977	60.700		25	
1978	65.200	0.074135091	1.85	
1979	72.300	0.108895706	2.92	
1980	82.700	0.143845090	4.28	
1981	90.600	0.095525998	3.25	
1982	97.000	0.070640177	2.64	
1983	99.500	0.025773196	1.03	
1984	103.700	0.042211055	1.73	
1985	107.600	0.037608486	1.61	
1986	109.500	0.017657993	0.78	
1987	113.500	0.036529680	1.65	
1988	118.000	0.039647577	1.85	
1989	124.100	0.051694915	2.51	
1990	129.900	0.046736503	2.39	
1991	136.000	0.046959199	2.51	
1992	140.200	0.030882353	1.73	
1993	144.400	0.029957204	1.73	
1994	148.000	0.024930748	1.48	
1995	152.500	0.030405405	1.85	
1996	156.700	0.027540984	1.73	
1997	160.300	0.022973835	1.48	
1998	163.000	0.016843419	1.11	
1999	166.200	0.019631902	1.32	
2000	172.400	0.037304452	2.55	
2001	178.000	0.032482599	2.31	
2002	179.900	0.010674157	0.78	
2003	183.700	0.021122846	1.57	
2004	189.700	0.032661949	2.47	
2005	194.500	0.025303110	1.98	
2006	202.900	0.043187661	3.46	
2007	208.352	0.026870379	2.25	
2008	218.815	0.050217900	4.31	
				90.11 Possible dues total for 2009
2009	215.693	-0.014267760	-1.29	
2010	217.695	0.009281711	0.82	
2011	225.722	0.036872689	3.31	
2012	229.478	0.016639938	1.55	
2013	233.504	0.017544165	1.66	
2014	238.343	0.020723414	1.99	
2015	238.638	0.001237712	0.12	
2016	241.018	0.009973265	0.98	
2017	244.955	0.016334880	1.62	
2018	251.989	0.028715478	2.90	
2019	256.143	0.016484847	1.71	
			105.48	105.48 Possible dues total for 2020

Schedule 2

Letter dated October 1, 2008 from Stoel Rives LLP on Cumulative CPI Changes to Maximum Monthly Assessment Allowed

STOEL RIVES LLP
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October 1, 2008

Ms. Susie Stevens
Executive Director
Charbonneau Country Club
32000 SW Charbonneau Drive
Wilsonville, OR 97070

Re: Charbonneau Country Club – Monthly Assessment

Dear Susie:

At your request, we have analyzed the Charbonneau Country Club's Covenants, Conditions and Restrictions ("CC&Rs") to determine the maximum dollar amount the Board could levy on January 1, 2009 for a regular monthly assessment without a vote of the membership. Although the relevant language of the CC&Rs is not entirely clear, we believe that the permitted increases are cumulative, rather than referring back to 1978 each year.

No Oregon courts have interpreted similar language, but courts in other jurisdictions have interpreted similar language as intending a cumulative increase in the assessment. An Oregon court interpreting the language of the CC&Rs would likely reach a similar result, as a "straight-formula" interpretation would render part of the language used in the CC&Rs meaningless surplusage (*see* the last sentence of Section 3(c) "taking into consideration prior increases in such maximum, if any."). As a rule, courts attempt to interpret contracts in such a way that meaning is given to all of the contract's terms. Accordingly, the most reasonable interpretation of the CC&Rs is that the permitted increase is cumulative.

Please feel free to contact me with any questions or concerns.

Very truly yours,

Howard M. Feuerstein

HMF:RMH:dld