

# **Horseshoe Lake Homeowners Association Annual Meeting**

**July 28<sup>th</sup>, 2021**

After a tally of all the neighbors of the Association present at the meeting and all proxies, there was a quorum of 19. President Mike Irrgang called the meeting to order at the Black Diamond Bakery Conference Room at 5:15 pm.

The main topics which were to be discussed and addressed:

- Responding to the Sturza email – explaining to everyone (especially new residents) what led to the letter controversy
- What are other issues regarding legal liabilities
- A discussion as to what is the purpose of the board
- Reviewing and voting on the budget
- Electing the entire board, as all terms expired either in 2020 or 2021

The discussions were as follows:

- Responding to the Sturza email – explaining to everyone (especially new residents) what led to the letter controversy:
  - The undivided common ownership of lake, lakebed, and park, leads to individual liability for all homeowners in our development.
  - As our park is at present easily accessible from Ten Trails (because of the pole gate), there is an issue that we have a “public path”, which constitutes a liability unless we follow a number of regulations regarding its maintenance.
  - The 2019 annual meeting debated and voted against Tim Urpman’s plan to cut down many cottonwoods and keep a path cleared.
  - There was a subsequent evaluation by two arborists, who stated that cottonwoods would be one of the few trees that could grow in what is an occasional wetland.
  - We corrected everyone’s impression that we don’t know who did what. There were witnesses to Tim Urpman and Will Parker cutting down trees, Tim tagged more trees to cut down, and Rob Sturza was observed by witnesses riding the mower on the path.
  - We consulted three lawyers who advised us on what actions to take. The board paid for only one, who advised us to sever the 30 homes for liability from the three that had taken the prohibited activities. This would assist the 30 in case there was any accident which resulted in a lawsuit and legal liability. This was what resulted in the letter.
- Furthermore, the path is once again freshly cleared, recreating the dual individual risk issue: path not a “public path” to state standards, and path has tripping hazards, leading to “attractive nuisance” liability.
  - At this point it is important to note that Rob Sturza has no further legal liability, since he has not been involved in any maintenance of the path since 2019.

- There was controversy regarding the expenditure of \$750 for the lawyer. We reminded old residents and informed new residents that the original reason Dino Berkheimer and Mike Irrgang joined the board was because Barbara Rush had just paid a lawyer \$6000+. So it is not irresponsible to have spent \$750 total for legal expenses for the past 5+ years on the board.
- The question was raised as to when does liability related to the path go away.
  - In essence, when there is no longer a path.
- The question was raised, who has remaining liability for the path.
  - At this point, only Tim, since he has continued to mow the path.
- The question was raised regarding additional liabilities.
  - At this point, the major liability relates to the pole gate – this is what leads to liability for the path, and much worse liability for all of us for any accident involving the lake
- It was suggested, and agreed, that the Board would see if the County would accept us building our own fence with a more secure gate inside the property, with access for the County, if we are unable to get Ten Trails to replace the pole gate with a more secure gate
- There was discussion as to what is the purpose of the board.
  - The main purpose is the responsibility of protecting the fiduciary interests of all the resident homeowners.
- It was suggested, and agreed, that the Board would see if the County would accept us building our own fence with a more secure gate inside the property, with access for the County, if we are unable to get Ten Trails to replace the pole gate with a more secure gate
- Cynthia Riley and Hillary Hubbard questioned why the board can't just make liability go away and why we can't put a date on it?
  - The response was that the board doesn't determine liability – rather, a court determines it based on a lawsuit
- A question from Cynthia was if it lasted forever?
  - The response was it goes away when the path grows back its underbrush.
- A question from Hillary was what could we do to make it go away immediately?
  - The response was that if we go out and buy \$1000 worth of large bushes and plant them all through the trail, there is no trail and therefore no liability anymore.
- A question from Kymm Calis was what if her children go and make a trail again, with machetes, mowers, whatever?
  - The response was that that is likely analogous to what has happened recently all over the nation when kids have accidentally shot their friends with their parents' guns – the parents have gone to jail in the last couple of years. I.e., if you don't control your children, you are liable.
- In all of this we emphasized that we will get sued if there is an accident – and we will have to pay to defend ourselves. All we can do is try and insulate ourselves from liability for any judgment
- We emphasized that the real issue aggravating liability is the pole gate and closing it off.
- A vote was taken to try to close off the pole gate entrance from outsiders coming into the common area. The vote to close off the entrance was approved by a vote of hands in favor. Ideas installing a chain link gate and barbed wire behind the pole gate on our common property with permission of the county as long as they have access to the ramp to pump the

Lake down when needed. Most of the residence in attendance seemed like that idea of a chained link fence and gate.

- Mike Irrgang proposed talking to a lawyer to get Ten Trails to replace the pole gate with a chain link locking gate. Since it is their gate and their responsibility to keep their residents out of our privately owned property. Mike has been trying to get Ten Trails to replace the pole gate for a year and there has been no response. The residents jumped to the conclusion that Mike wanted to sue Ten Trails – which was not the case. A vote was taken to acquire a lawyer in our case about the pole gate. The proposal was voted down.
- The Budget was presented and approved.
- A short discussion was had about the water level in the Lake. Mike works with the County every season to help keep an eye on the water level in the Lake. Mike and the County try to keep the lake level at 511 feet above sea level and no more. Any more than that the lake will begin to flood the homes around the lower properties around the lake.

After all the above discussion, the meeting turned to voting for officers. At the suggestion (prior to the meeting) of Rob Sturza, voting was by written ballot instead of handraising, to preserve homeowners' privacy. All seats were up for election, given that there was no 2020 meeting and all offices had expired. Paper ballots were handed to all residents present and the proxies were voted as written. After counting all proxies and paper ballots, the vote tallies were as follows:

- President:
  - Mike Irrgang -14 votes
  - Kymm Calis – 4 votes
- Vice President:
  - Mike O'Shea – 15
  - Gil Pearson – 1 vote
- Secretary:
  - Rob Sturza – 16 votes
- Treasurer:
  - Tammi Gilgan – 15 votes
  - Tim Urpman – 1 vote
- Member at Large:
  - Matthew Gabert – 14 votes

After the results were announced, Tammi Gilgan and Matt Gabert traded their board seats, at Tammi Gilgan's request. The board officers, their new terms (based on prior expiration dates), and their contact information is as follows:

- President (2 year term): Mike Irrgang [mike@irrgang.net](mailto:mike@irrgang.net) 713-858-4166
- President (2 year term): Mike O'Shea [oshea00@gmail.com](mailto:oshea00@gmail.com) 253-298-7738
- Secretary (2 year term): Rob Sturza [robsturza@comcast.net](mailto:robsturza@comcast.net) 253-455-1715
- Treasurer (1 year term): Matthew Gabert [matthew.gabert@outlook.com](mailto:matthew.gabert@outlook.com) 425-652-7394
- Member at Large (1 year term): Tammi Gilgan [tammi414@msn.com](mailto:tammi414@msn.com) 253-740-7262

After the voting was announced, the meeting was adjourned at 7:15pm.