

FILED
SUPERIOR COURT
THURSTON COUNTY, WASH

17 JUN 15 AM 11:49

The Honorable Carol Murphy

Linda Myhre Enlow
Thurston County Clerk

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17-2-00812-34
DCLR
Declaration/Affidavit
1455763



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

THERESA J. LOWE, a single woman; LORENNO. 17-2-00812-34
J. BOSSHARD and DONNA A. BOSSHARD,
husband and wife; BURLEIGH M. CUBERT DECLARATION OF BERT LEWIS
AND CAROLYN CUBERT, husband and wife,

Plaintiffs,

vs.

FOXHALL COMMUNITY ASSOCIATION, a
nonprofit corporation,

Defendant.

I, Bert Lewis, am competent to testify on the matters set forth herein and make this
declaration of my own personal knowledge and belief:

- 1. I have been a member of Foxhall Community Association for approximately 26
years.
- 2. I have been Board president for the last two years. In April of this year I was
reelected to the Board and appointed to serve as President for another year.

BERT LEWIS DECLARATION

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

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3. Attached as Exhibit A is a copy of Foxhall's Articles of Incorporation.

4. Attached as Exhibit B is a copy of Foxhall's Protective Covenants.

5. Attached as Exhibit C is a copy of the current bylaws. Article 10 governing the amendment to bylaws has not been changed. It is the Board's position that the language in Article 10 that the bylaws can be amended "by a vote of a majority of the members of the corporation present at any meeting of the membership duly called for such purpose" means that only those present at the meeting can vote.

6. Attached as Exhibit D is a true and correct copy of the Notice for the November 19, 2015 Special Meeting.

7. The November 19, 2015 Special Meeting had nothing to do with amending the bylaws to adopt a clarifying rule for current and future Boards of Directors.

8. Attached as Exhibit E is a true and correct copy of the November 15, 2015 minutes.

9. Attached as Exhibit F is a true and correct copy of the tally of the vote from the November 19, 2015 meeting. Of those present, 18 voted against and 5 voted in favor. There were 73 no votes by proxy.

10. The Board consulted an attorney then rejected the purported amendment for several reasons. First and foremost, it believes that such a limitation conflicts with the provision in the Restrictive Covenants that the trails "shall be for **the benefit of**, and be used by, the residents of Foxhall." (emphasis added) Second, the Board believes that the process used for adopting the Bylaws was flawed because it only passed if proxies were included in the vote and the bylaws require presence at the meeting to vote, the notice of the meeting was defective, and motions were made during the meeting which were not allowed to be voted upon. Third, the language that was chosen for the proposed Bylaws amendment interprets the covenant language to provide what the proponents wanted, but it is both unclear and arbitrary. For example, are foster

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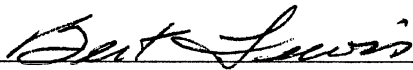
1 children included? What of friends who are also customers? We don't have any way to
2 understand how their language relates to the actual covenant.

3 11. I am unaware since living at Foxhall of there ever being a vote to amend the bylaws
4 in which proxy votes were counted. Nor can I find any record of such a vote.

5 12. The Foxhall Community Association has liability insurance which covers accidents
6 on common property, including the trails. There is no exclusion for injuries to non-members.

7 I declare under penalty of perjury that the foregoing is true and accurate to the best of
8 my knowledge and belief.

9 EXECUTED this 12 day of June, 2017 in Olympia, Washington.

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12 Bert Lewis

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BERT LEWIS DECLARATION

- 3 -

Betts
Patterson
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701 Pike Street
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EXHIBIT A

ARTICLES OF INCORPORATION OF
FOXHALL COMMUNITY ASSOCIATION

The undersigned, Virgil L. Adams, acting as the incorporator of a corporation under the provisions of the Washington Non-Profit Corporation Act. (Rev. Code of Washington 24.03), adopt the following articles of incorporation for such corporation.

ARTICLE I
NAME

The name of the corporation shall be Foxhall Community Association.

ARTICLE II
DURATION

The period of duration of the corporation shall be perpetual

ARTICLE III
PURPOSE

The purpose for which the corporation is organized are:

1. To acquire, own, operate, and maintain recreation areas and facilities in connection therewith, including but not being limited to, playfields, playfield equipment, swimming pools, paths, trails, parks and greenbelt and picnic areas, all as a part of or appurtenant to the following described real property located in Thurston County, State of Washington.

The east half of the northwest quarter of the southeast quarter lying northerly and easterly of county road known as Hawks Prairie Road; The east half of the southwest quarter of the northeast quarter; The northwest quarter of the northeast quarter of the southeast quarter; The south half of the northeast quarter of the northeast quarter; The north three quarter of the southeast quarter of the northeast quarter; The west half of the south one-quarter of the north east quarter; All in Section 33, Twp. 19N, Range 1 West, W.M., Thurston county, State of Washington.

Lots 1 through 33, Foxhall, as recorded in Volume 21 of Plates, Pages 144 & 14 records of the County Auditor's office for Thurston County, Washington, under said Auditor's File No. 8111170090 and subsequent divisions as may be added to Foxhall within the area described above.

The particular lots and areas to be acquired, owned, operated and maintained by this corporation are the following:

Tracts A and B, Foxhall, Division 1, as recorded in Volume 21 of plats, page 144-5 records of the County Auditor's office for Thurston County, Washington, under said Auditor's File No. 8111170090 and such other areas as may be acquired.

2. To fix, establish, levy and collect annually such charges and/or assessments as may be necessary to operate, maintain, repair, construct, reconstruct or extend the recreation areas and

facilities and the real property designated here in and any other real property designated in the Bylaws or in any amendment thereof, but not in excess of the maximum from time to time fixed by the Bylaws.

3. To expend the moneys collected by said corporation from assessments and charges and other sums received for the payment and discharge of costs, expenses, and obligations incurred by said corporation in carrying out any or all of the purposes for which said corporations is formed.

4. Generally, to do any and all lawful things which may be advisable, proper, authorized and/or permitted to be done by said corporation under and by virtue of any restrictions, condition, and/or covenants or laws affecting said property or any portion thereof (including areas now or hereinafter dedicated to public use); and to do and perform any and all acts which may be either necessary for or incidental to, the exercise of any of the foregoing powers of for the peace, health, comfort, safety and/or general welfare of owners of said property, or properties thereof, or residents thereon.

5. To borrow money and mortgage, pledge or hypothecate any or all of the real or personal property of said cooperation as security for money borrowed or debts incurred; and to do any and all things that a corporation organized under said laws of the State of Washington may lawfully do when operating for the benefit of its members or the property of its members, and without profit to said corporation.

6. Generally, to do and perform any and all acts which may be either necessary or proper for or incidental to the exercise of any of the foregoing powers and such powers granted by the provisions of Title 24.03 RCW and other laws of the State of Washington relating to non-profit corporation.

7. Nothing contained in these Articles of Incorporation shall be construed as authorizing or permitting said corporation to own, manage or operate any real or personal property for profit. It is the intention and purpose that the business of said corporation shall not be carried on for profit either to itself or for the benefit of its members, and wherever it is authorized to collect charges or assessments it shall have not power or authority to use charges or assessments except a s necessary to cover the actual cost or expense of the act, duty, power or transaction performed.

ARTICLE IV MEMBERSHIP

A) The corporation shall at all time hereafter be a joint and mutual association of the above-named incorporator and such other persons as may hereafter be admitted to membership in accordance with the Bylaws of the corporation and who shall be owners or purchasers of a lot or lots in the Plat of Foxhall, Lots 1 through 102.

B) There shall be two classes of memberships, namely (a) single memberships and (b) multiple memberships. A single membership shall be issued to the owner or purchaser of one lot. A multiple membership shall be issued to the owner or purchaser of tow or more lots. Fractional lots owned or purchased shall be computed to determine qualifications of a multiple membership, but only if the fractions total one lot. All questions involving fractional lots shall be determined by the Board of Directors.

C) Membership and certificates evidencing the same shall be inseparably appurtenant to lots owned by the members, and upon transfer of ownership or contract for sale of any such lot or lots, membership and certificates of membership shall ipso facto be deemed to be transferred to the grantee or contract purchaser. No membership or certificate of membership may be transferred, assigned, or conveyed in any manner other than in the manner herein set forth. In the event of the death of a member, the membership or certificate of membership of such deceased member shall be and become the property of the personal representative of such deceased member upon appointment and qualification as such in a judicial proceeding and such personal representative shall have all the rights, privileges and liabilities of such member until the same shall be transferred or contracted to be transferred.

D) The interest of each membership in the corporation shall be determined according to the member of lots owned by such member.

E) The voting right of each member shall be dependent upon the number of lots owned by such member.

F) All charges and assessments from time to time fixed by the bylaws of this corporation shall be levied against the member owner but upon a per lot basis. Fractional lots shall be assessed proportionately.

G) The property in possession of this corporation shall be managed by the Board of Directors hereinafter named and only alienated and disposed of in accordance with the Bylaws of the corporation.

ARTICLE V REGISTERED OFFICE

The address of the initial registered office of the corporation shall be 806 East State Avenue, Olympia, Washington. The name of the initial registered agent of the corporation at such address shall be Virgil L. Adams.

ARTICLE VI DISSOLUTION

In the event of the dissolution of the corporation, each person who is then a member shall receive his pro-rata proportion of the property and assets after all its debts have been paid.

ARTICLE VII ORIGINAL DIRECTORS

The number of directors constituting the initial Board of Directors of the corporation shall be three directors. The names and addresses of the persons who are to serve as the initial directors of the corporation are as follows:

Virgil L. Adams, PO Box 636 (806 E. State Ave.), Olympia, Wa. 98507

Katherine A. Adams, PO Box 636 (806 E. State Ave.), Olympia, Wa. 98507

Dennis Adams, PO Box 636 (806 E. State Ave.), Olympia, Wa. 98507

ARTICLE VIII INCORPORATOR

The name and address of the incorporator of the corporation is as follows:
Virgil L. Adams, PO Box 636 (806 E. State Ave.), Olympia, Wa. 98507

ARTICLE IX
BYLAWS

The qualification of the members of said corporation, the property, voting and other rights and privileges, and the liabilities to charges and assessments of the members, except as stated herein, shall be as set forth in the Bylaws of the corporation.

Dated this 17th day of November 1981.

Virgil L. Adams

STATE OF WASHINGTON

ss.

COUNTY OF THURSTON

On this 17th day of November, 1981, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Virgil L. Adams, to me known to be the person who executed the foregoing instrument and acknowledged he signed said instrument as his free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument.

Witness my hand and official seal hereto affixed the day and year first above written,

Notary Public in and for the State of Washington,
residing at Olympia,

[Back to top - Return to Home](#)

EXHIBIT B

FOXHALL COMMUNITY ASSOCIATION

Division I-II Protective Covenants &

Division III Amendment

FIRST AMENDED PROTECTIVE COVENANTS APPLICABLE

TO AND FOR RECORDING AS AGAINST

Exhibit A

FOXHALL, DIVISION I, Lots 1 through 33 and Tracts A and B, as recorded in Thurston County, Washington, according to the plat recorded in the office of the Thurston County Auditor in Volume 21 of Plats, pages 144 and 145, and,

FOXHALL, DIVISION II, Lots 35 through 81 and Tracts d, E, F, G, H and I, as recorded in Volume 1 of Non-platted Streets, Pages 532 and 538, Records of Thurston county, Washington Auditor's Office. LL-0161

The undersigned, Virgil L. Adams, being the owner of more than 80% of the aforesaid Foxhall, Division I, Lots 1 through 33; Tract C (well site) and Community Area, Tract A and B; and Foxhall, Division II, Lots 34 through 81; Tracts D, E, F, G, H and I, in order to provide for the aesthetic, healthful and uniform development of all the aforesaid real property and so as to further provide for control of structures to be erected, improvements to be made, and operation to be conducted upon said real property on this 26th day of October, 1982, DOES HEREBY COVENANT AND AGREE and for his successors and assigns, to keep all of the covenants hereinafter set forth and which are hereby made applicable to the above described real property and binding upon the owners thereof, to the extent provided in such covenants, and subject to which covenants all of such property shall be owned, held, used, occupied and developed.

ARTICLE I. AREA OF APPLICATION

A. These covenants in their entirety shall apply to all lots included in Foxhall, Division I and the real property covered thereby, and to Foxhall, Division II, and the real property covered thereby.

Tract A in Foxhall, Division I and Tracts H and I in Division I and Division II shall be for the benefit of, and be used by, the residents in Foxhall, Division I and Foxhall, Division II and the maintenance thereof shall be the responsibility of the Foxhall Community Association and all repairs and maintenance thereof shall be provided for at the expense of the Foxhall Community Association and funded by assessments against all owners of lots in Foxhall, Division I and Foxhall, Division II.

Tract B in Division I of Foxhall provides for the collection and disbursement of storm runoff and surface water, and the maintenance thereof shall be the responsibility of the Foxhall Community Association, and all repairs and maintenance thereof shall be provided for at the expense of the Foxhall community Association and funded by assessment against all of the owners of the lots in Foxhall, Division I and Foxhall, Division II.

Tracts, D, E, F, and G, Foxhall, Division II are private roads, owned by Foxhall Community Association for the purpose of providing ingress and egress and utilities to Tracts 35 through 77 of Foxhall, Division II and the maintenance thereof shall be the responsibility of the Foxhall Community Association and all repairs and maintenance thereof shall be provided for at the expense of the Foxhall Community Association and funded by assessments against owners of Foxhall, Division II, Lots 35 through 77. Foxhall, Division I Lots 1 through 33 and Foxhall, Division II, Lots 34, 78, 79, 80, and 81 shall not be subject to assessments for road maintenance purposes.

Whenever 60% of the owners of Lots of Foxhall, Division II abutting on one of the private roads elect to improve the road to County standards and deed the road to Thurston County, the Foxhall Community Association shall assess all of the owners of the tracts abutting on said road an amount necessary to improve said road to County standards. When said improvements are completed said roads shall then be deeded to Thurston County by the Foxhall Community Association and those lots abutting said street shall no longer be subject to assessments for road repairs and maintenance by Foxhall community Association.

ARTICLE II. COVENANTS RESPECTING USE

A. Land Use and Building Type. All of the lots in Foxhall Division I, numbered 1 through 33, and Foxhall Division II, numbered 34 through 81, shall be used for residential purposes only; provided, however, that lots 46, 47, and 50 or portion thereof, may be used to construct roadways to property outside the plat of Foxhall, provided that approval of the construction of said roadway is obtained from the Board of Directors of the Foxhall Community Association. No more than one detached single-family dwelling shall be constructed on each lot.”

B. Architectural Control. No building or other permanent structure shall be erected or altered on any lot until the construction plans, specifications, and a plan showing the location of the building or structure has been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and grade elevation. As a guideline to purchasers of lots in Foxhall, Division I, the minimum square footage of living area for single-family homes will be 1,300 square feet, with a value of \$80,000.00, or more for a house and lot.

The required value of a house and lot may, from time to time, be increased or decreased, by the Architectural Control Committee to allow for future changes in building costs. All houses shall have at least a two-car garage. Where the restriction and covenants herein set forth cannot be complied with, because of land limitation or topographical restriction, the proper and orderly development of such lots shall be affected within the purview of these covenants as far as possible, and the Architectural Control Committee is hereby empowered to allow variations as in its judgment permits the reasonable utilization of such lots most consistent with general plans of development.

C. Building Location. Set-back requirements for construction shall comply with County regulations.

D. Easements. An easement is hereby reserved for and granted to the owners of Lots 35 through 77, Foxhall, Division II and their respective successors and assigns, over Tracts D, E, F, and G, and Foxhall, Division II for the purpose of ingress and egress to their respective lots. Said easement is granted subject to reasonable rules and regulations respecting use, which may be adapted from time to time by the Foxhall Community Association.

An easement is hereby further reserved for, and granted to, Puget Sound Power & Light company, the owner of the water system, Nationwide Cablevision, Pacific Northwest Bell Telephone Company, Washington Natural Gas Company and their respective successors and assigns under and upon the private roadways of Foxhall, Division II and the exterior seven (7) feet of side boundary lines of all lots, in Foxhall, Division I and Foxhall, Division II, in which to install, lay, construct, renew, operate and maintain pipes, conduits, cables and wire with necessary facilities and other equipment for the purpose of serving the subdivision and other property thereto with water, electric, telephone, gas and television service, together with the right to enter upon the lot at all times for the purpose so stated.

An easement is hereby further reserved and granted to the County of Thurston and the Foxhall Community Association, its successors and assigns, for all drainage shown on the plat of Foxhall, Division I and Foxhall, Division II, other than those located within the public ways shown on said plat and all natural drain courses for the purpose of installing, laying, constructing, renewing, operating, maintaining drainage for said subdivision and other property adjacent thereto.

E. Utility Services. All permanent utility services and connections thereto within Foxhall, Divisions I and Foxhall, Division II, with the exception of Lots 78, 79, 80 and 81 of Foxhall, Division II shall be provided by underground services exclusively.

F. Noxious and Offensive Activity. No noxious or undesirable thing or noxious undesirable use of the property in said additions, whatsoever, shall be permitted or maintained upon said building sites in said additions. If the Architectural Control Committee shall determine what trade, business, or use is undesirable or noxious, such determination shall be conclusive.

G. Temporary Structure. No structure of a temporary character, basement shack, garage, barn or other outbuilding shall be used on any lot, at any time, as a residence, either temporarily or permanently.

H. Completion of Structures; All buildings commenced on any lot shall be completed as to exterior appearance, including painting and landscaping not later than twelve (12) months after construction is commenced.

I. Mobile Homes. No mobile homes or manufactured homes will be permitted in the subdivision.

J. Boats, Campers and Travel Trailers. Boats, campers and travel trailers may be stored on the lot in conjunction with a permanent home, but must be properly screened as to be complimentary to the subdivision. They shall not be lived in as a second residence, nor shall any of them be parked on any of the streets within the subdivision for a period longer than 24 hours.

K. Garbage and Refuse Disposal. No garbage, refuse, rubbish or cuttings shall be deposited on, or left on the lot premises unless placed in an attractive container, suitably located and screened from public view. No building material of any kind shall be placed or stored upon any property in said subdivision until the owner is ready to commence construction, and then such material shall be placed within the property lines of the building site upon which structures are to be erected and shall not be placed in the street.

L. Sewage Disposal. No individual sewage disposal system shall be permitted on any lot unless such system is designed, located, and constructed in accordance with the requirements, standards and recommendations of the Thurston County Health authorities.

M. Livestock. In Foxhall, Division I, no animals, livestock or poultry shall be raised, bred or kept on any such lots. Dogs, cats and horses may be kept thereon if they are not kept, bred, or maintained for any commercial purpose.

In Foxhall, Division II, no restrictions in this section shall apply.

N. Hunting and Firearms Use. The discharge of firearms for hunting purposes, or for target practice within the area of the plat for Foxhall, Division I or Foxhall Division II shall be prohibited.

O. Recreational Facilities. Tracts A and B of the Plat of Foxhall, Division I and Tracts H and I of Foxhall, Division II are owned by Foxhall Community Association. It is contemplated that the Foxhall Community Association may develop recreational facilities on said Tracts, at some future time. These facilities shall be subject to these covenants to the extent that they may be applicable.

P. Foxhall Community Association. All owners of lots in Foxhall, Division I and Foxhall, Division II are, and will be automatically members of the Foxhall Community Association. All owners of lots in Foxhall, Division I and Foxhall, Division II, except unsold lots belonging to the developer, shall be subject to the charges and assessments provided for in and for the purposes set forth in the Articles of Incorporation and Bylaws of Foxhall Community Association, a non-profit and non-stock Washington Corporation. Said corporation shall have a lien against all lots and said assessments, including interest and twelve per cent (12%) per annum on all charges and assessments that are not paid when due. If such charges and assessments levied by the corporation shall not be paid within four (4) months after they become due and payable, then, in addition to the remedies set forth in a the Articles of Incorporation and Bylaws, the corporation may proceed by appropriate action to foreclose said lien. In such foreclosure action the corporation shall be entitled to recover the cost of title search and court costs, together with attorney's fees in such an amount as the court may adjudge reasonable in such action. Any first mortgage liens placed upon any of said lots, which are recorded in accordance with the laws of the State of Washington, shall be, from the date of the recording of such mortgage, superior to such assessments and the liens provided for herein that are levied by the corporation subsequent to the date that said first mortgage is recorded.

Q. Fences. No fence shall be constructed on any lots unless approved by the Architectural Control Committee and shall generally consist of a 3-board fence, painted white, & particularly those portions of fence abutting the roadways. No

fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum setback line, unless similarly approved.

ARTICLE III. ARCHITECTURAL CONTROL COMMITTEE

A. Membership. The Architectural Control committee shall be composed originally of Virgil L. Adams, Katherine A. Adams and Dennis L. Adams. A majority of the committee may designate a representative to act for it. In the event of the death, or resignation, of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant. At any time after the sale of 80% of the lots in Foxhall, Division I and Foxhall, Division II, the then record owners of a majority of the lots shall have the power, through a duly recorded instrument, to change the membership of the committee, or to take away from the committee, or restore to it any of the powers and duties as herein defined.

B. Procedure. The committee's approval or disapproval as required in the covenants shall be in writing. In exercising the discretionary powers granted to the committee, the committee shall, at all times, exercise its power in a reasonable manner and said committee is hereby embodied to adopt reasonable regulations as are necessary, with respect to the enforcement of those covenants. In the event that committee or its designated representative fails to approve or disapprove any plans or specifications submitted to it within thirty (30) days after the submission thereof, or in any event, if no suit to enjoin the construction has been commenced, prior to the completion thereof, approval will not be required and compliance with the related covenants shall be deemed to exist.

ARTICLE IV. MODIFICATION OF COVENANTS

These covenants may be modified by an instrument in writing, signed by the owners of more than 80% of the lots included in Foxhall, Division I and Foxhall, Division II and duly recorded.

ARTICLE V. TERM, ENFORCEMENT AND CONSTRUCTION

A. Term. These covenants, or covenants as amended, provided in Article IV shall run with the land and shall be binding on all parties and persons claiming under them.

B. Enforcement. Enforcement shall be by proceeding at law or in equity against any person, or persons, violating, or attempting to violate, either to restrain violation or to recover damages for such violation.

C. Severability. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

ARTICLE VI. AMENDATORY PROVISIONS

A. These First Amended Covenants shall be considered as amending the Protective Covenants relative to Foxhall, Division I heretofore filed in the office of the Thurston County Auditor, on November 17, 1981, as Auditor's receiving No. 8111170091.

IN WITNESS WHEREOF, the parties hereunto affix their hand and seal this 26th day of October 1982.

Virgil L. Adams
806 East State Avenue
Olympia, Washington 98501

STATE OF WASHINGTON

ss.

COUNTY OF THURSTON

On this 26th day of October 1982m before me, the undersigned, a NOTARY PUBLIC in and for the State of Washington, duly commissioned and sworn, personally appeared VIRGIL L. ADAMS, the developer that executed the foregoing instrument, and acknowledged he signed the said instrument as his free and voluntary act and deed, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instruments.

WITNESS my hand and official seal hereto affixed the day and year first above written.

/S/ David Seeman
NOTARY PUBLIC, in and for the State
of Washington, residing at Olympia

READ AND APPROVED

Justo T. Griego Lot 28	Richard I. Johnson Lot 12	Ken Slater Lot 23
Michie A. Griego Lot 28	Betty J. Johnson Lot 12	Susan P. Slater Lot 23
Date <u>October 26</u> , 1982	Date <u>October 26</u> , 1982	Date <u>October 26</u> , 1982

Hursey Construction Company, Inc., By _____
Jack M. Hursey Lot 14

Date October 26, 1982

Protective Covenants

Division III Amendment

PROTECTIVE COVENANTS APPLICABLE TO AND FOR RECORDING AS AGAINST FOXHALL DIVISION III, ACCORDING TO THE PLAT THEREOF RECORDED IN THE OFFICE OF THE AUDITOR OF THURSTON COUNTY IN VOLUME _____ OF PLATS AT PAGE _____.

WHEREAS, the undersigned Virgil L. Adams has heretofore developed Foxhall Division I and II and has provided for protective covenants applicable to said divisions, as disclosed in an instrument recorded under Thurston County Auditor's File No. 8210260083 as amended by instruments recorded under Thurston County Auditor's File Nos. 8411060081, 8411060082, and 8411060083, and that a copy of said covenants as amended is attached hereto, marked "Exhibit A", and by this reference made a part hereof, and

WHEREAS, the undersigned intends that the restrictions and covenants contained in "Exhibit A" shall apply to all of the property contained in Foxhall Division III,

NOW, THEREFORE:

1. The undersigned does hereby covenant and agree for himself and his successors and assigns to keep all of the covenants set out in "Exhibit A" attached hereto, and which are hereby made applicable to Foxhall Division III. All property in said Foxhall Division III shall be owned, held, used, occupied and developed in accordance therewith.

2. The Foxhall Community Association referred to in "Exhibit A" is a corporation organized under the laws of the State of Washington, and said corporation has by a resolution adopted October 30, 1984 agreed that the owners of land in Foxhall Division III may be members of said corporation and subject to the provisions of its Articles of Incorporation and By-Laws and entitled to all rights and privileges of its members and will be subject to all of the duties and obligation as members.

3. Foxhall Community Association will acquire title to all of the common areas and green belts in Foxhall Division III and will hold title to the same subject to the provisions of these covenants and Articles of Incorporation and By-Laws of said corporation.

4. All roads in Foxhall Division III are county roads, and there will be no assessments in Foxhall Division III for road maintenance.

5. In "Exhibit A" where there are standards and requirements for the lots in Foxhall Division I that are different than those applicable to Foxhall Division II, the requirements and standards applicable to Foxhall Division II shall apply to the lots in Foxhall Division III.

Dated this 3rd day of September, 1985

Virgil L. Adams.

STATE OF WASHINGTON

ss.

County of Thurston

On this day personally appeared before me Virgil L. Adams, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 3rd day of September 1985.

Notary Public in and for the State of

Washington, residing at Olympia therein.

.....

<<<Note to Foxhall readers: The Exhibit A attached to this document is identical to the Protective Covenants for Division II>>>

[RETURN TO TOP](#) | [RETURN TO HOME PAGE](#)

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EXHIBIT C

FOXHALL COMMUNITY ASSOCIATION

BYLAWS

(as amended 3/7/2017)

ARTICLE I

PURPOSES

Sec. 1. This corporation shall be conducted as a non-profit maintenance corporation for the purposes set forth in the Articles of Incorporation for the area situated in Thurston County, Washington, and more particularly described as follows:

Legal Description for properties subject to the Bylaws of the Foxhall Community Association:

Lots 1 through 33 of Foxhall, Division One, as recorded November 17, 1981 under Thurston County Auditor's File No. 8111170090, in Volume 21 of Plats, pages 144 and 145.

Also, Lots 34 through 81 of Large Lot Subdivision No. LL-0161, as recorded October 26, 1982 under Thurston County Auditor's File No. 8210260083, commonly known as Foxhall, Division Two.

Also, Lots 1 through 29 of Large Lot Subdivision No. LL-0320, as recorded October 8, 1985 under Thurston County Auditor's File No. 8510080006, commonly known as Foxhall, Division Three.

Also, Lots 30 through 37 of Large Lot Subdivision No. LL-0435, as recorded September 3, 1987 under Thurston County Auditor's File No. 8709030121, commonly known as Foxhall, Division Four.

Also, Lots 1, 2 and 3 of Large Lot Subdivision No. LLS972003TC, as recorded August 21, 1998 under Thurston County Auditor's File No. 3173998, commonly known as Foxhall, Division Five.

Also, that part of the East 635 feet of the West half of the Northwest quarter of the Southeast quarter of Section 33, Township 19 North, Range 1 West, W. M., lying Northerly and Easterly of county road known as Hawks Prairie Road and Southerly of a line running South 73°08'49" West from a point on the East line of said West half of the Northwest quarter of the Southeast quarter that is North 1°45'55" East 464.36 feet from the Southeast corner thereof; commonly known as Lot 82 of Foxhall, Division Two.

The particular areas to be acquired, owned, operated and maintained by this corporation are:
Legal Description for properties currently owned by Foxhall Community Association:

Tracts A and B of Foxhall, Division One, as recorded November 17, 1981 under Thurston County Auditor's File No. 8111170090, in Volume 21 of Plats, pages 144 and 145.

Also, Tracts D, E, F, G, H and I of Large Lot Subdivision No. LL-0161, as recorded October 26, 1982 under Thurston County Auditor's File No. 8210260083, commonly known as Foxhall,

Division Two; Excepting that part of Tract D conveyed to Thurston County for road purposes by deed recorded under File No. 8412200045; Also excepting that part of Tract H conveyed to Thurston County for road purposes by deed recorded under File No. 8510150011.

Also, Tracts J, K and L of Large Lot Subdivision No. LL-0320, as recorded October 8, 1985 under Thurston County Auditor's File No. 8510080006, commonly known as Foxhall, Division Three.

Also, Tract M of Large Lot Subdivision No. LL-0435, as recorded September 3, 1987 under Thurston County Auditor's File No. 8709030121, commonly known as Foxhall, Division Four.

And subsequent divisions as may be added to Foxhall within the area described above.

Sec. 2. The corporation shall have power to levy and collect assessments against its members, against the tracts owned or purchased by them for the purposes in its Articles of Incorporation and Bylaws set forth, and to sell or forfeit their interest in the corporation for default with respect to any lawful provisions of said Articles of Incorporation and upon forfeiture of any such property as by law and in the Bylaws provided may transfer the membership of such

ARTICLE II

MEMBERSHIP

Sec. 1. The corporation shall at all times hereafter be a joint and mutual association of the incorporator and such other persons as may thereafter be admitted to membership in accordance with these Bylaws and who shall be owners or purchasers of a lot or lots in the Plats of Foxhall.

Sec. 2. There shall be two classes of membership, namely, (a) single membership and (b) multiple memberships. A single membership shall be issued to the owner or purchaser of one lot. A multiple membership shall be issued to the owner or purchaser of two or more lots. Fractional lots owned or purchased shall be computed to determine qualifications of a multiple membership, but only if the fractions total one lot; questions involving fractional lots shall be determined by the Board of Directors.

Sec. 3. Membership and certificates evidencing the same shall be inseparably appurtenant to lots owned by the members, and upon transfer of ownership or contract for sale of any such lot or lots membership and certificates of membership shall ipso facto be deemed transferred to the grantee or contract purchaser. No members or certificates of membership maybe transferred, assigned or conveyed in any manner other than in the manner herein set forth. In the event of the death of a member, the membership or certificate of membership of such deceased member shall be and becomes the property of the personal representative of such deceased member upon appointment and qualification as such in a judicial proceeding and such personal representatives shall have all the rights, privileges, and liabilities of such member until title shall be transferred or contracted to be transferred.

Sec. 4. The interest of each membership in the corporation shall be determined according to the number of lots owned by such member.

Sec. 5. The voting rights of each member shall be dependent upon the number of lots owned by such member. On all corporate matters coming before the membership, a single membership shall be entitled to one vote, and multiple memberships shall be entitled to the same number of votes as the number of lots owned by the multiple membership; provided, however, that no member shall be entitled to vote for an ownership of an ownership of any fractional part of a lot unless the fractional parts owned by a member would total one lot. If any lot is held by two or more persons, the several owners shall be considered and treated as one owner for voting purposes.

Sec. 6. No membership shall be forfeited nor shall any member be expelled except upon foreclosure for non-payment of assessments, and no member may withdraw except upon transfer of title to the real property to which his membership is appurtenant, as elsewhere herein provided. No compensation shall be paid by the corporation upon any transfer of membership and no member whose membership is transferred shall be entitled to share or participate in any of the property or assets of the corporation when and if it should be dissolved.

ARTICLE III

DISSOLUTION

In the event of the dissolution of the corporation, each person who is then a member shall receive his pro-rata proportion of the property and assets after all of its debts have been paid.

ARTICLE IV

DIRECTORS AND OFFICERS

Sec. 1. Corporate powers of the corporation shall be vested in a Board of Directors. The number of directors who shall manage the affairs of the corporation shall be five.

Sec. 2. Directors shall be elected to serve for two years or until their successors are elected and duly qualified.

Sec. 3. Each director shall be an incorporator or a member who shall not have lost his right to vote by reason of having disposed of land to which his membership appurtenant.

Sec. 4. In the event a director, other than an incorporator, ceases to be the owner of the land to which membership is appurtenant, or of a contract for the purchase thereof, he shall thereby cease to be a director and his office shall become vacant upon written notification without action other than to spread such fact upon the minutes of the Board of Directors.

Sec. 5. At the first meeting of the Board of Directors after each annual meeting of the members, the Board of Directors shall elect a president, vice-president, secretary, and treasurer. Any two of the offices of vice-president, secretary and treasurer may be combined by the Board of Directors. The board may also at any time appoint an executive secretary and/or assistant secretary and/or assistant treasurer. Officers of the corporation so elected shall hold office for the term of one year and until their successors are qualified.

Sec. 6. No director or officer, except the executive secretary and/or the assistant secretary and/or the assistant treasurer shall receive any salary or compensation from the corporation.

Sec. 7. Any vacancy occurring in the Board of Directors shall be filled by appointment by a majority of the remaining directors. The person so approved shall hold office until the next annual or adjourned annual meeting of the members of the corporation, at which meeting the vacancies for the remainder of the original term, if any, shall be filled by election by the members in the regular manner.

Sec. 8. The owners by a majority vote of the voting power in the association present, in person or by proxy, and entitled to vote at any meeting of the owners at which a quorum is present, may remove any member of the board of directors with or without cause.

ARTICLE V

MEETINGS

Sec. 1. Annual meetings of the members of the corporation shall be held at the principal place of business of the corporation or at such other place as the Board of Directors may elect. The annual meeting shall be held in April of each year at 7 o'clock p.m. (Enacted 4/20/2011 Annual Meeting). Notice thereof shall be given by the secretary by mailing notice to each member not less than ten (10) days prior to the date of the meeting.

Sec. 2. Special meetings of the members may be called at any time by the president or a majority of the Board of Directors or by members representing ten percent of the lots within the jurisdiction of the corporation. Notice of special meetings, stating the object thereof, shall be given by the secretary by mailing such notice to each member not less than fourteen (14) days nor more than fifty (50) days prior to the date on which such meeting is to be held.

Sec. 3. At all annual and special meetings of the members, ten per cent of all of the members of the corporation shall constitute a quorum for the transaction of business. Each single membership shall be entitled to one vote and multiple memberships shall be entitled to one vote per lot owned and they shall be similarly counted to determine the presence of a quorum.

Sec. 4. Special meetings of the Board of Directors shall be called at any time by the secretary on order of the president or a majority of the Board of Directors. The secretary shall give each director notice, personally, verbally, or by mail or by telephone, of all regular and special meetings at least one (1) day prior thereto.

Sec. 5. A member may exercise his right to vote by proxy. Said proxy must be limited and specific in nature and meet the following conditions:

- a) be signed and the signature dated,
- b) declare the subject involved and the member's intent regarding that subject,
- c) be limited in duration to the Association meeting or its continuation at which the subject is to be decided,
- d) be non-transferable,
- e) be revocable by the grantor at any time prior to actual exercise of the proxy.

A member may hold no more than two proxies at any time

Sec. 6. Within thirty days after adoption by the board of directors of any proposed regular or special budget of the association, the board shall set a date for a meeting of the owners to consider ratification of the budget not less than fourteen nor more than fifty days after mailing of the summary. Unless at that meeting the owners of a majority of the votes in the association are allocated or any larger percentage specified in the governing documents reject the budget, in person or by proxy, the budget, including assessment rates, is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the owners shall be continued until such time as the owners ratify a subsequent budget proposed by the board of directors. [RCW 64.38.025]

ARTICLE VI

POWERS AND DUTIES OF DIRECTORS

Sec. 1. Subject to limitations in the Articles of Incorporation and the Bylaws and the law of the State of Washington, all powers of the corporation shall be exercised by or under the authority of, and the business and affairs of the corporation shall be controlled by the Board of Directors. Without prejudice to such general powers, and subject to the same limitations, it is hereby expressly declared that the directors shall have the following powers:

Sec. 2. To select and remove all the officers, agents, and employees of the corporation, prescribe such powers and duties for them as may not be inconsistent with law, with the Articles of Incorporation or the Bylaws, fix their compensation and require from them security for faithful service.

Sec. 3. To conduct, manage and control the affairs and business of the corporation, and to make such rules and regulations therefore not inconsistent with law, with the Articles of Incorporation or the Bylaws, as they may deem best.

Sec. 4. To issue certificates of membership only to the owners or purchasers of tracts herein before described, subject to such condition or terms as provided in the Articles of Incorporation and the Bylaws.

Sec. 5. To charge and/or assess the several parcels of land and the owners thereof as herein more particularly set forth.

Sec. 6. To cause to be kept a complete record of all minutes and acts and to present a full statement to the regular annual meeting of the members showing in full detail the condition of the affairs of the corporation.

Sec. 7. To administer an appeals process through which members of the Association may appeal determinations of noncompliance with the Covenants or the policies of the Architectural Control Committee (Enacted 12/9/03).

Sec. 8. To purchase liability and officers and directors insurance at levels commensurate with other community associations in Thurston County.

ARTICLE VII

DUTIES OF OFFICERS

Sec. 1. PRESIDENT. The president shall preside at all meetings of the directors and members; he shall sign as president all certificates of membership and all contracts or other instruments in writing authorized by the Board of Directors; he shall call special meetings of the directors or of the members whenever he deems it necessary; he shall have and exercise under the direction of the Board of Directors the general supervision of the affairs of the corporation.

Sec. 2. VICE-PRESIDENT. The vice-president shall preside at all meetings in the absence of president, and in case of absence or disability of the president, shall perform all other duties of the president which are incidental to his office.

Sec. 3. SECRETARY. The secretary shall issue all notices and shall attend and keep the minutes of all meetings and must make available to each owner of record for examination and copying minutes from the previous association meeting not more than sixty days after the meeting. Minutes of the previous association meeting must be approved at the next association meeting in accordance with the association's governing documents. The secretary shall have charge of all corporate books, records and papers, and shall perform all such other duties as are incidental to his office.

Sec. 4. TREASURER. The treasurer shall keep safely all moneys and securities of the corporation and disburse the same under the direction of the Board of Directors. He shall cause to be deposited all funds of the corporation in a bank selected by the directors. At each annual meeting of the members, and at any time directed by the directors, he shall issue and present a full statement showing in detail the condition of the affairs of the corporation.

Sec. 5. The executive secretary and/or assistant secretary, and/or assistant treasurer, if appointed by the Board of Directors, shall perform such duties as may be designated by it.

Sec. 6. Any officer, other than the president, may occupy two offices concurrently if the Board of Directors so directs.

Sec. 7. The Association shall defend, indemnify, and hold harmless the officers and directors thereof, and all members of the Architectural Control committee, for all acts undertaken and performed during the course of their duties, provided that no such defense, indemnification or obligation to hold harmless shall be available for intentional felonious criminal behavior, or willful and wanton misconduct.

ARTICLE VIII

CERTIFICATES OF MEMBERSHIP AND TRANSFERS

Sec. 1. An appropriate certificate of single or multiple membership in the corporation may be issued to each member. All such certificates shall indicate on the face thereof, whether it is single or multiple and shall be signed by the president or vice president and the secretary.

Sec. 2. All membership and certificates evidencing same shall be inseparably appurtenant to the lot or lots owned by the holders thereof, and upon sale or contract to sell such real property

such certificates shall become the property of the grantee or purchaser as hereinbefore provided. No transfer of membership shall entitle the transferee to vote the same until he has been established to the satisfaction of the secretary that such transfer is bona fide and has been made in the manner provided.

Sec. 3. Unless specifically requested by the owner and holder thereof, it shall not be necessary that certificates of membership be actually issued, but any owner or purchaser of a lot or lots within the said district may exercise all of the rights and privileges and shall be subject to all of the liabilities of membership without the actual issuance and possession of such certificate of membership.

ARTICLE IX

ASSESSMENTS

Sec. 1. The members of the corporation shall be liable for the payment of such charges or assessments as may from time to time be fixed and levied by the Board of Directors for acquisition, operation and maintenance of the Foxhall Community Association recreation areas and facilities, pursuant to the Articles of Incorporation and these Bylaws, and subject to the provisions thereof. The amount of such charges and assessments levied upon a member shall in no event, except as hereinafter provided, exceed in any one year the sum of one hundred eighty dollars (\$180.00: Enacted 5/24/2006 Annual Meeting) for each lot owned by the member. Fractional lots shall be proportionately assessed. Charges and assessments against all members shall be levied by the Board of Directors at a uniform rate per lot without distinction or preference of any kind. All charges or assessments, when collected by the corporation, shall remain the property of the members until such time as such charges or assessments are expended pursuant to the Articles of Incorporation and Bylaws of the corporation. The developer of the real property previously described in these Bylaws as the property to which persons are entitled to obtain membership in this corporation, shall not be obligated as the developer to pay any membership or dues or assessment fees on the property purchased by them until such time as it has been sold out in lots and at the time the membership dues and assessments shall be paid by the purchasers of said property on the sale by the developer and not by the developer.

Sec. 2. From time to time, as and when any such assessment in this Article is levied, each member with respect to the land or interest therein to which is membership appurtenant, shall pay the amount of such assessment against the same to the corporation, at its office, within thirty days after the mailing of the notice of such assessment to the members; and the amount of such assessment, plus interest at 12% per annum on delinquencies, together with all expenses, attorney's fees and costs reasonable incurred in enforcing the same, shall be paid by the members and shall be a lien upon said land, enforceable by foreclosure proceedings in the manner provided by law for foreclosure of mortgages upon land; provided, that no proceedings for the foreclosure of any said liens in this Article shall be commenced except upon the expiration of four months from and after the date of mailing said notice of assessments in this section described.

Sec. 3. First mortgage liens placed upon any of said lots which are recorded in accordance with the laws of the State of Washington shall be, from the date of the recordation of such mortgage, superior to such assessments and the liens resulting there from as are levied by the corporation subsequent to the date of the recordation of the first mortgage.

ARTICLE X

AMENDMENTS

The Bylaws may be amended at any time by a vote of a majority of the members of the corporation present at any meeting of the membership duly called for such purpose.

ARTICLE XI

CORPORATE SEAL

The seal of the corporation shall be in circular form and shall contain the words "FOXHALL COMMUNITY ASSOCIATION- and the words "Corporate Seal of Washington 1981' in the form and style as affixed to these Bylaws for the impression of said corporate seal.

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EXHIBIT D

Foxhall Community Association

Special Meeting

7 pm

November 19, 2015

Southbay Elementary School

Note: This is a repeat of the Oct 27 meeting. The last meeting was requested, called and held according to the Foxhall Bylaws. At the beginning of the meeting, the notification time was questioned. The group in attendance voted to have the meeting. Nonetheless, in order to avoid a challenge in the future on notification time, the meeting will be repeated.

Objective: Amend the Bylaws to adopt a clarifying rule for current and future Boards of Directors.

The proposed bylaw clarifies the governing documents that Foxhall Parks and Trails are for the exclusive use of residents, families and friends. Foxhall Association members' businesses may not extend their business activities onto Foxhall Parks and Trails.

Point of Contact: Denise Solveson 491-4278

EXHIBIT E

Foxhall Community Association Special Meeting of November 19, 2015

Minutes

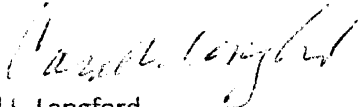
1. Special Meeting Called to Order by Denise Solveson at 7:30 pm. Special Meeting agenda provided to all present.(See Attachment A-Agenda)
2. Rose Elts designated as Parliamentarian.
 - Reviewed Rules of Meeting including those printed on the Meeting Agenda
 - Referenced Minute Taker
 - Reviewed Special Meeting Process referencing the Foxhall Community Association Bylaws stating sufficient number of special meeting requests was collected to satisfy the requirements of both the Foxhall Community Association (FCA) Bylaws and the Revised Code of Washington.
 - Reviewed the process for amending the Bylaws as written in the FCA Bylaws.
 - Requested all present to sign the sign-in sheet.(See Attachment B
 - Requested a motion to discuss the proposed Bylaw.
3. Motion made and seconded to discuss the proposed Bylaw.
4. Motion made and seconded to amend the proposed Bylaw.
5. After a vigorous discussion a Ruling was made by Parliamentarian to continue the meeting by discussing the original, proposed Bylaw as written in the agenda thereby following the Rules of the Meeting
6. Statement in Favor of the Proposed Bylaw by D Solveson (10 Minutes)
7. Floor Opened for a 10 minute period of further comment.
8. Discussion and comments made in support and opposition of proposed Bylaw.
9. Ruling by Parliamentarian asking members to not speak about another person who is not here in attendance.
10. Ruling by Parliamentarian extending discussion period
11. Motion made and seconded to form a committee to discuss the situation and recommend a resolution. Discussion ensued.
12. Motion made and seconded to amend the motion on the floor, motion stated as "if a committee is formed they would be required to meet with a professional mediator or facilitator from an organization such as the Dispute Resolution Center and the mediator would be required to report to the board and the community." Discussion ensued. Vote taken. With a show of hands vote the Motion passed.
13. Motion on the floor restated as "To table the vote until a committee can be formed and discuss this further." Vote taken. Motion did not pass. Request for a recount made. Recount of show of hands vote was done. Motion did not pass.
14. Discussion continued regarding the original, proposed Bylaw.
15. Motion made and seconded to vote on the proposed, original Bylaw. Paper ballots distributed. (See Attachment C, Paper Ballot)

Note: The Proposed Bylaw as printed on the Bylaw Ballot reads as follows: Article VI; POWERS AND DUTIES OF THE DIRECTORS Sec 9. Foxhall Parks and Trails are for the exclusive use of residents, families and friends. Nonresident visitors must be accompanied by a resident when using Foxhall Parks and Trails. Foxhall Association members' businesses may not extend their business activities onto Foxhall

Parks and Trails. Members' business invitees, customers, or patrons, whether in trade or in barter, are prohibited from using Foxhall Parks and Trails, even when accompanied by a Foxhall member.


- 16 Point of Order regarding "what is on the different proxy forms?" Parliamentarian reported that after the last meeting of October 27, 2015 all the proxy forms were taken to an attorney who confirmed all the proxy forms were valid.
- 17 Paper ballots collected. Paper ballots and proxy votes counted twice.
- 18 Results of Vote Announced with 78 votes yes, for the proposed Bylaw and 18 votes no against the proposed Bylaw. The Motion to pass the proposed Bylaw passed. (See Attachment D, Summary of Voting Results)
- 19 Motion made and seconded to adjourn. By acclamation all were in favor of adjournment at 9:20 pm.

Respectfully submitted,



Carol L. Langford
01/11/2016

Addendum: As reported by D Solveson following a request from F. Paul Carlson, Foxhall Community Association Board of Directors Secretary copies of the sign-in sheet, ballot summary reporting sheet, paper ballots and proxy vote forms were submitted to him on December 2, 2015 at the close of the FCA Budget Meeting.

Carol Langford 
01/11/2016

See Attachments:

- A – Foxhall Community Association Special Meeting November 19, 2015 Agenda
- B – Foxhall Sign-In Roster printed 11/18/2015
- C – Bylaw Ballot for 19 November 2015 Foxhall Community Association
- D – Summary of Ballots for 27 October Form 2015 dated 11-19-2015

EXHIBIT F

Summary of Ballots for 27 October 2015

A bylaw has been proposed to clarify the governing documents on how Association property shall be used. The proposed bylaw reads as follows:

Article VI; POWERS AND DUTIES OF DIRECTORS Sec.9. Foxhall Parks and Trails are for the exclusive use of residents, families and friends. Nonresident visitors must be accompanied by a resident when using Foxhall Parks and Trails. Foxhall Association members' businesses may not extend their business activities onto Foxhall Parks and Trails. Members' business invitees, customers, or patrons, whether in trade or in barter, are prohibited from using Foxhall Parks and Trails, even when accompanied by a Foxhall member.

Should this bylaw be enacted?

Yes, enact the bylaw.		No, do not enact the bylaw.	
# of votes in attendance <u>5</u>	# of votes by proxy <u>73</u>	# of votes in attendance <u>18</u>	# of votes by proxy <u>0</u>
Total Votes Yes	<u>78</u>	Total Votes No	<u>18</u>

Signature Coral L. Long Date 11-19-2015

Signature RJ Law Date 19 Nov 15

Signature Rose Ellis Date 11-19/2015