

**Minutes of the Annual General Meeting of the St Helena Views Home Owners' Association**

**Date: 24<sup>th</sup> November 2021 at 18H00**

**Durbanville Conference Centre, First Floor Town Centre, Durbanville, 7550**

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**1. Welcome and Confirmation of a Quorum**

1.1 Jurgens Tubb (JT), Chairman of the HOA, welcomed everyone to the AGM. JT mentioned he was pleased to see such a good turnout.

1.2 JT explained that the reason for the 2<sup>nd</sup> AGM in 2021 was so that the HOA is in line with the Constitution, which notes that the AGM is to be held before the 30<sup>th</sup> December each year.

1.3 JT confirmed that as per the current Constitution of the SHVHOA, 10 members would constitute a quorum. There being 16 members in attendance in person and 32 in attendance via Zoom, as allowed by the Constitution, a quorum was confirmed and the meeting could proceed.

1.3 JT thanked the Managing Agent for getting the HOA back on track, which can be observed in the latest financials and all their hard work.

**2. Apologies and Proxies**

2.1 Apologies were received from:

Erf 10330 Aubrey Marthinus

Erf 10082 Mr Bosman

Erf 10858 Martin Yuill

Erf 11147 Mr and Mrs Benmouia

Erf 10879 Mr and Mrs Barnard

Erf 10955 Vinesh Kooverjee

Erf 10279 Gaylene Kayser

Erf 10653 Wellis Du Toit Family Trust

Erf 11415 V. Tinker

Erf 10261 Mr and Mrs Botha

Erf 10256 Melissa-Lorian Mattee

2.2 A proxy was received from Mr Lamb, Erf 10197 nominating Rodger Mehl as his proxy.

**2. Approval of the minutes of the Annual General Meeting held 11 March 2021**

Approval of the minutes was proposed by Johan van den Berg (JVDB) and seconded by Johan Malan (JM). There were no objections and the minutes were therefore approved.

**3.1 Deal with any unfinished business if any**

**3.1.1 *Update on the relocation of the unrecorded pipeline***

Email communication was received from Saldanha Bay Municipality, Mr Gavin Williams on 27/10/2021 advising that they are in the final stages of awarding the tender to the contractor and works will be completed by July 2022.

**3.1.2 Update on the Developer's gates, rusting guardhouse, speedbumps and pillars**

3.1.2.1 Kim Selvan (KS) confirmed that these had all been removed.

**3.1.3 Update on the criminal case against the previous managing agents**

3.1.3.1 JT advised he had received communication from Kevin Brown, who is dealing with the criminal case against the previous managing agents on behalf of St Helena Views and 3 other Estates on 23/11/2021. The forensic auditors are busy with the bank statements in order to verify the amounts stolen. A minimum of R500k needs to be confirmed as fraudulent transactions to qualify for serious jail time. Mr Brown will confirm when it is ready to come up for prosecution.

3.1.3.2 JT confirmed to the question from the floor that it is estimated that ± R1million from SHVHOA was stolen.

**3.1.4 Update on the website**

3.1.4.1 JT confirmed that the website link was circulated to all Members.

3.1.4.2 JT requested that KS re-circulate the link and ask Members to please send any comments.

3.1.4.3 JT also thanked JM for all his hard work in creating the website and also confirmed that although an amount was budgeted for this, there were not costs to date.

3.1.4.4 JT requested that the AGM minutes be uploaded onto the website.

3.1.4.5 JT confirmed to the question from the floor that the HOA would welcome any photos from members to be added to the website.

**3.1.5 Update on the security company appointed to patrol the estate**

3.1.5.1 JVDB gave details regarding the security company that was appointed and who commenced at the end of July 2021. JVDB advised there had been a significant reduction in incidents but there are still instances of vagrants and theft, and JVDB is in contact with Fidelity ADT on how to try and eliminate this as much as possible. The guards are now armed with a pepper spray and they will now also respond to any house alarms that are activated.

3.1.5.2 JVDB further explained that access cannot be denied as it is not a gated community, the HOA/security can only manage the situation.

3.1.5.3 JVDB confirmed there is only 1 bakkie, patrolling 24 hours a day.

3.1.5.4 Bruce Wademan (BW) confirmed the amount reflected in this year's budget was increased as the quotation received was more than was budgeted at the previous AGM

3.1.5.5 JT responded to the question from the floor regarding the properties having been sold as a security estate by explaining that in order for SHV to be a private estate, the HOA would need to obtain the infrastructure from the municipality and would therefore be responsible for the maintenance thereof, which would be a huge financial burden, which in turn would affect the monthly levies in order to cover these costs. This is something that the HOA could consider in time to come. JT further confirmed that the gates that were erected by the Developer were removed upon instruction from the Municipality.

3.1.5.6 JVDB further added that certain areas of the Estate will never be able to be completely privatised, i.e. access to the beach.

3.1.5.7 Shaun Ginsburg (SG) asked for an update on Eskom, the security lights that are not working, which is a security concern. JT referred to a meeting with Eskom about 3 years ago who gave the undertaking to re-instate the electrical connection to properties that start with their construction.

3.1.5.8 SG asked if the HOA can look at the introduction of solar lighting.

3.1.5.9 JVDB advised the question from the floor that it would be advisable that the builder/owner have their own security on the building site.

3.1.5.10 Charl Goosen (CG) requested that the HOA look at increasing the security contract for an additional patrol vehicle.

3.1.5.11 JT advised that he will start the process of getting an indication of costs to privatise the Estate.

#### **4. Chairperson's Report**

4.1 There were no comments to the Chairperson's report, which was proposed by Johan Malan (JM) and seconded by Charl Goosen (CG) and was therefore accepted.

#### **5. Approve the budget for the 2021/2022 year**

5.1 CG questioned the increase of the Management fee.

5.2 BW explained that the rate per unit in the budget is far lower than the market related rate for Estates of a similar size. He said that when PPM took over the estate, it was taken over at the same rate of the previous managing agents, which was below market rate and below what PPM usually charge.

5.3 BW further explained that the estate was in a very bad state when the accounts were taken over and have worked hard to turn it around. There was a significant amount of work to get the database correct and of course debt collection.

5.4 BW advised that with the change to a rate per unit, there will be no additional charges from PPM for follow ups on the arrears debtors and that PPM will now absorb these costs as part of the new contract value.

5.5 An error on one of the cells in the budget that reflects the % increase, that was referred from one of the Zoom attendees is to be addressed and corrected.

5.6 BW confirmed to the question from the floor that the HOA is reflecting a deficit, but that there are sufficient accumulated funds to keep the HOA afloat for the year. BW also advised that money has been put aside for the long-term reserve.

5.7 JT confirmed to the question from the floor regarding levy increases next year, that he hopes that with additional sales of developer properties that the number of members will increase, thereby spreading the financial burden over a larger number of members.

5.8 BW explained that the Constitution for SHVHOA is that the budget is prepared by the Trustees and presented to the members for approval at the AGM after which any levy increases applied. However as the HOA is already into the financial year, the increases therefore do not tie in with the Financial Year, which is different to how Body Corporates work. Body Corporates prepare their budgets prior to the financial year end and levy increases are applied at the beginning of a financial year.

5.9 JT confirmed to a question from the floor that the Constitution states that the Developer is exempt from paying levies.

5.10 JT confirmed as per the budget, the levies will increase from R115.00 to R150.00 per month, effective from 1<sup>st</sup> December 2021.

5.11 BW confirmed to a question from the Zoom platform that the budget was prepared in advance and an allowance was made for the website. BW confirmed that not all budgeted items need be spent, as is the case with the website.

5.12 JT called for a vote by a show of hands from the in person and zoom platform if anyone was opposed to the budget, of which there were none.

5.13 The budget was proposed by JVDB and seconded by CG. The budget was therefore approved.

## **6. The election and determination of the number of Trustees for the ensuing year**

6.1 JT mentioned that the HOA were losing Johan Malan as a valued Trustee as he had sold his property in the estate and was therefore not eligible to stand for the ensuing year.

6.2 Resignation from Jaco Kotze is also noted as received.

6.3 Resignations from Dawood Shabodien and Jacques Saunderson were received earlier in the year.

6.4 The following current Trustees agreed to remain in office for the ensuing year:

Sean Le Riche

Mandla Maxongo

Johan Van Den Berg

Jaco Serfontein (Developer Trustee)

Carel Steenkamp (Developer Trustee)

Jurgens Tubb (Developer Trustee)

6.5 The following nominations for Trustees were received and accepted:

Hermanus Prinsloo (owner of Erf 10122)

Sameegah Moro (owner of Erf 11070)

Maureen Wallander (Developer Trustee)

Karl Raubenheimer (Developer Trustee)

6.6 JT advised that therefore there will be an equal number of home owner Trustees and Developer Trustees, 5 each.

## **7. Consideration of the Audited Annual Financial Statements of the Home Owners' Association for the year ended 30 June 2021**

7.1 Ja-Nien Nieuwoudt (JN) of Eric Salomon & Co was in attendance to go through the financials and answer any questions from the members.

7.2 JN advised that the HOA is now in a solvent situation, which was not the case last year.

7.3 JN stated that prior year adjustments had to be done due to unconfirmed figures by the previous managing agent.

7.4 JN advised that there is a surplus for the 2021 year and also advised that all the HOA now needs to do is to register for income tax with SARS.

7.5 JN advised that auditors report is qualified, and that it is the last year to be qualified. This was a result of the 2019/2020 opening balances that could not be verified

7.6 Questions received from CG, SG and the Zoom platform were responded to and explained by JN.

7.7 JT confirmed that the old Standard Bank account is in the process of being closed and the bulk of the funds have been transferred to the FNB account

7.8 The AFS were proposed by MM and seconded by JM and were therefore approved.

## **8. Consideration and fixing of the remuneration of the Auditors and any other service providers for the following financial year**

**8.1 Fidelity and Computer Fraud insurance in place to 31/07/2022. R400/month**

**8.2 Eric Salomon and Co – R16,375.00 excluding VAT for Audit and AFS plus R2,000.00 excluding VAT for Income Tax submission to SARS**

8.2.1 Proposed by JVDB and Seconded by CG. Quotes were therefore accepted.

**9. Special Resolution to vote on the amendments to the Constitution**

**9.1 Amendments are so that the Constitution complies with the prescribed regulations from the Community Schemes Ombudsman Services (CSOS)**

9.2.1 CG queried the rights of members being removed by removing the arbitration clauses. After some discussion it was agreed to amend the resolution accordingly to retain the clause to allow a member to address their grievances with CSOS against a Trustee. BW stated that this right existed in the CSOS regulations in any event, it didn't change member's rights.

9.2.2 The resolution was proposed by MM and seconded by Thomas Jenniker (TJ) - Erf 10529, with an amendment not to remove any members rights and that members have the right to refer disputes.

**10. Special Resolution to vote on the amendments to the Architectural Design Guidelines**

**10.1 Amend Clause 3.2 to increase the current height restriction from 7m to 8m, which will be retrospectively enforced.**

10.1.1 JT explained that several requests to increase the height restriction had been received from members and after discussion with the Estate Architect and the Trustees, it was agreed to move forward with the proposal.

10.1.2 There being no objections, the resolution was proposed by JVDB and Seconded by TJ.

**11. Adoption of the Members Code of Conduct document and Annexure of Fines**

11.1 CG requested that clause 2.4 be amended to read as follows:

"No sign, notice board or advertisement of any kind whatsoever may be placed on the common area of any erf within the estate with the exception of the standard building contractor's signboard for the duration of the build, details of which are referred to in the Builders Code of Conduct document, and an approved Estate Agents for sale board."

11.2 SG queried whether there is any restriction on private sales. JT confirmed there are no restrictions on private sales.

11.3 There were no further comments and/or objections. The Members Code of Conduct and Annexure of Fines was proposed by JVDB and seconded by CG.

**12. Any other business**

**12.1 Amendments to the Builders Code of Conduct Document**

**12.1.1 No construction is permitted on Weekends and Public Holidays**

12.1.1.1 Following some discussion on this amendment, it was put to the vote, which votes were counted from those members in person and on Zoom and the majority votes received was to reinstate that construction may be allowed on a Saturday from 08h00 to 12h00.

**12.1.2 Contractors will not be permitted to work during the mandatory December/January builder's shutdown period, as determined by the Building Industry Bargaining Council**

12.1.2.1 There were no objections received to this amendment.

**12.1.3 Paragraph 2.3 to include “and the date of signature thereof will constitute the commencement of construction date”**

12.1.3.1 KS explained the reason to establish the start date of commencement for the pre-construction payments and to be able to measure the construction period.

12.1.3.2 This amendment was proposed by JVDB and seconded by Sam Moro (SM) Erf 11070.

**12.1.4 Add new paragraph “Owners and Contractors are reminded of the Building Guidelines Annexure to the Constitution that stipulates that Home Owners are to complete construction of their home within a 12 month period or they will be subject to a penalty of R2,000.00 per month from the 13<sup>th</sup> month of construction. A special application for an extension of this 12 months period can be submitted to the Trustees for consideration. Any lenience on these penalties will be left at the discretion of the Trustees in office. This penalty will be payable in full before final occupation certificates are issued.”**

**12.1.5 Discuss the extension of the 12 month construction period**

12.1.5.1 There was some discussion on this matter. JT requested that members send their votes on amending the time limit. The majority of votes received was to amend the time limit for construction to 18 months.

12.1.5.2 KS reminded JT that the annexure of the construction limit is part of the Constitution and in terms of the Constitution, to make any amendments would entail a special resolution with the relevant notice period given to all members. It therefore could not be amended at this AGM, but will form part of a proposed change at the 2022 AGM, to be changed from 12 to 18 months.

**13. Determination of the “Domicilium Citandi et Executandi” of the Owner Association**

**13.1 Office 101, Suite 202, Waterfront Terrace, Tyger Waterfront, Carl Cronje Drive, Bellville, 7530**

11.1.1 The above “domicilium Citandi et Executandi” was accepted as the address of the Managing Agents.

**12. Closing**

The meeting closed at 20h10

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CHAIRMAN

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DATE