

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met on June 9, 2022, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2nd Floor, Board Room 3, Richmond, Virginia 23233.

The following members were present:

Drew Mulhare, Chair
Maureen A. Baker
Matt Durham
Jim Foley
Eileen M. Greenberg
Amanda Jonas
David S. Mercer, Vice-Chair
Lori Overholt
Anne M. Shechan
Katherine E. Waddell

Board member Scott Sterling was not in attendance at the meeting.

DPOR staff present for all or part of the meeting included:

Demetrios J. Melis, Director
Trisha L. Lindsey, Executive Director
Heather Gillespie, Ombudsman
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Raven C. Custer, Administrative Coordinator

Joshua Laws, Assistant Attorney General with the Office of the Attorney General, was present.

Finding a quorum of the Board present, Mr. Mulhare called the meeting to order at 9:31 a.m. **Call to Order**

Ms. Jonas moved to approve the agenda. Mr. Foley seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Shechan, and Waddell. **Approval of Agenda**

Ms. Greenberg moved to approve the March 3, 2022, Board meeting minutes as presented. Mr. Durham seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Shechan, and Waddell. **Approval of Minutes**

Ms. Overholt arrived at the Board meeting at 9:33 a.m.

**Board Member
Arrival**

Ms. Lindsey introduced to the Board Administrative Coordinator Raven Custer. Ms. Lindsey also advised that Kishore Thota had joined DPOR as the Chief Deputy Director.

Introduction of Staff

No members of the public present came forward to address the Board.

**Public Comment
Period**

In the matter of File Number **2022-02394, John T. Farnum, as Receiver for Lighthouse Properties of Virginia, Inc.**, the Board members reviewed the record consisting of the facts regarding the recovery fund claim in this matter.

**File Number 2022-
02394, John T.
Farnum, as
Receiver for
Lighthouse
Properties of
Virginia, Inc.**

After discussion Mr. Foley moved to adopt the claim review, finding substantial evidence that the claim does meet the provisions for reimbursement, therefore ordering that the claim be paid in the amount of the balance of the Common Interest Community Management Recovery Fund as of May 31, 2022 (\$239,466.76).

After further discussion, Ms. Overholt seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Ms. Lindsey advised the Board that payment of the claim will deplete the CIC Management Recovery Fund balance and § 54.1-2354.5 of the Code of Virginia requires the minimum balance of the Recovery Fund to be \$150,000. Ms. Overholt moved to restore the recovery fund to \$150,000.00 by transferring funds from the reserve account for the Common Interest Community Management Information Fund. Mr. Durham seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

After discussion, Mr. Mercer moved that it be the sense of the Board that the General Assembly consider adjusting the minimum balance requirement of the CIC Management Recovery Fund, as the current minimum is inadequate. Mr. Durham seconded the motion which was approved unanimously by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Mr. Haughwout asked the Board to consider issuance of a temporary cease and desist order against the condominium project registration of The Summit at Birchwood Condominium, for failure of the declarant, The Summit at Birchwood Condominium Development, LLC, to submit an annual report with evidence of a bond or letter of credit from a financial institution as required by § 55.1-1979 of the Code of Virginia, and Board Regulation 18 VAC 48-30-540. After discussion, Mr. Foley moved to authorize staff to issue a temporary cease and desist order against the project registration of The Summit at Birchwood Condominium, and require The Summit at Birchwood Condominium Development, LLC, to submit an annual report to the Board within thirty (30) days of the effective date of the order, as failure to file an annual report would cause irreparable harm to the public interest, and violate § 55.1-1979 of the Code of Virginia. Mr. Durham seconded the motion which was unanimously approved by Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Consider
Temporary Cease &
Desist Orders
Regarding
Condominium
Registrations

Mr. Haughwout asked the Board to consider issuance of a temporary cease and desist order against the condominium project registration of River Creek Commons, a Condominium, for failure of the declarant, River Creek, LLC, to (i) submit an annual report with evidence of a bond or letter of credit from a financial institution as required by § 55.1-1979 of the Code of Virginia, and Board Regulation 18 VAC 48-30-540, and (ii) post and maintain the bond or letter of credit required by § 55.1-1968 of the Code of Virginia. After discussion, Ms. Overholt moved to authorize staff to issue a temporary cease and desist order against the project registration of River Creek Commons, a Condominium, and require River Creek, LLC to (i) submit an annual report to the Board, and (ii) provide evidence satisfactory to the Board that it has obtained a bond or letter of credit in accordance with § 55.1-1968 of the Code of Virginia within thirty (30) days of the effective date of the order, as failure to file an annual report and post and maintain the bond or letter of credit would cause irreparable harm to the public interest, and violate §§ 55.1-1979 and 55.1-1968 of the Code of Virginia. Ms. Jonas seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Mr. Haughwout asked the Board to consider issuance of a temporary cease and desist order against the condominium project registration of Fan Gallery Condominiums, for failure of the declarant, Sixteen Fifty Seven Broad, LLC, to submit an annual report with evidence of a bond or letter of credit from a financial institution as required by § 55.1-1979 of the Code of Virginia, and Board Regulation 18 VAC 48-30-540. Ms.

Greenberg moved to authorize staff to issue a temporary cease and desist order against the project registration of Fan Gallery Condominiums, and require Sixteen Fifty Seven Broad, LLC to submit an annual report to the Board within thirty (30) days of the effective date of the order, as failure to file an annual report would cause irreparable harm to the public interest, and violate § 55.1-1979 of the Code of Virginia. Ms. Jonas seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Shechan, and Waddell.

Mr. Haughwout asked the Board to consider issuance of a temporary cease and desist order against the condominium project registration of Alexandria Flats Condominium, for failure of the declarant, Alexandria Flats, LLC, to comply § 55.1-1979 of the Code of Virginia and Board Regulation 18 VAC 48-30-570. Ms. Waddell moved to authorize staff to issue a temporary cease and desist order against the project registration of Alexandria Flats Condominium, and require Alexandria Flats, LLC to either (i) provide current evidence from the surety or financial institution of the bond or letter of credit required pursuant to § 55.1-1968 of the Code of Virginia, or submit a replacement bond or letters of credit; or (ii) provide a request for return of the assessment letter of credit that meets the requirements of 18 VAC 48-30-570 within thirty (30) days of the effective date of the order, as failure to comply with § 55.1-1979 of the Code of Virginia and Board Regulation 18 VAC 48-30-570 would cause irreparable harm to the public interest. Ms. Jonas seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Shechan, and Waddell.

Mr. Haughwout provided an update on the current status of the regulatory review processes for the Board's regulatory package:

**Update on
Regulatory Actions**

Mr. Haughwout advised that the CIC Manager Regulatory Review Committee recommendations and draft proposed amendments to the CIC Manager Regulations were approved, with revisions, by the Board at the March 3, 2022 Board meeting. The proposed regulatory text was submitted for Executive Branch review on March 14, 2022.

Ms. Lindsey presented the Board with Senate Bill 740, which was passed during the 2022 General Assembly session. The bill requires the Department of Professional and Occupation Regulation (DPOR) to establish a work group to study the adequacy of current laws addressing standards for structural integrity and for maintaining reserves to repair,

**Update on SB 740
Reserve Studies
Workgroup**

replace, or restore capital components in common interest communities, among other general items related to common interest communities.

Ms. Lindsey advised the Board that a work group is being created to comply with the requirements.

Ms. Lindsey presented the Board with Senate Bill 693, which was passed during the 2022 General Assembly session. The bill directs the Common Interest Community Board to review the feasibility of allowing audio and video recordings to be submitted with a notice of final adverse decision.

Discussion on SB 693

Ms. Lindsey asked to Board to consider authorizing staff to form a committee to review the feasibility of allowing audio and video recordings to be submitted with a notice of final adverse decision as directed by the legislation. Mr. Mercer moved to authorize staff to form a committee for the purpose of implementing SB 693. Mr. Foley seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Mr. Haughwout presented the Board with proposed revisions to the Summary of Board Interpretations, Policies, and Guidance Documents. The document will be updated to reflect the Board's previous adoption of interpretative guidance for 18 VAC 48-60-60 of the CIC Association Registration Regulations, and procedure for consideration of claims for recovery from the CIC Management Recovery Fund.

Consider Revisions to Summary of Board Interpretation, Policies, and Guidance Documents

Ms. Baker moved to adopt the proposed revisions to the Summary of Board Interpretations, Policies, and Guidance Documents. Ms. Greenberg seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

The Board recessed from 10:37 a.m. to 10:48 a.m.

Recess

Ms. Lindsey provided the Board with an overview of the legislative process and the purpose of the Board.

2023 Legislative Items for Consideration

Ms. Lindsey and Mr. Haughwout presented the Board with eight legislative proposals to be submitted for consideration during the 2023 General Assembly Session.

Discussion was held on the current requirements for CIC Management Recovery Fund under § 54.1-2354.5 of the Code of Virginia, including the definition of “claimant,” the minimum balance of the fund, and the imposition of assessments for the recovery fund. In addition, discussion was held on the minimum insurance requirements for common interest community managers.

After discussion and review of the draft legislative items, Mr. Durham moved to approve the proposals for submission as presented. Ms. Greenberg seconded the motion which was approved unanimously by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Due to changes in Board membership, Ms. Lindsey asked the Board to consider updating membership of the Training Program Review Committee. After discussion, Mr. Durham volunteered to serve on the Committee. Mr. Mercer moved to approve Mr. Durham as a member of the Training Program Review Committee. Ms. Greenberg seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Mr. Haughwout presented the Board with a request from Robert Makin for interpretation regarding applicability of license exemptions. Mr. Makin was present to address the Board regarding the interpretation request.

After lengthy discussion, the Board agreed by consensus to consider Mr. Makin’s request during closed session later in the meeting.

Ms. Lindsey reminded the Board that staff actively monitors legislation throughout General Assembly session and provides data and information regarding the Board and Department relevant to legislative proposals affecting the Board.

Ms. Lindsey advised the Board of legislation considered during the 2022 General Assembly session that could affect DPOR as well as the Board.

The Board received a report from the Office of the Common Interest Community Ombudsman. The report contains statistics on complaints received by the Ombudsman’s office, as well as compliance and enforcement statistics.

**Discussion of
Training Program
Review Committee
Membership**

**Consider Request
for Interpretation
Regarding
Applicability of
License Exemptions**

**2022 Legislative
Update**

Ombudsman Report

Ms. Lindsey provided the Board with the most recent financial statements.

Board Financial Statements

Ms. Lindsey presented the Board with tentative 2023 Board meeting dates for consideration. Ms. Sheehan moved to approve the following meeting dates.

Consider 2023 Meeting Dates

- March 9, 2023
- June 8, 2023
- September 22, 2023
- December 14, 2023

Mr. Durham seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Ms. Lindsey provided the Board with information on the 2022 Board Member Training Conference.

2022 Board Member Training Conference

Board Members addressed possibility for alternative delivery methods for Board Meeting Agendas.

Other Board Business

At 12:20 p.m., Mr. Mercer moved that the Board meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel pertaining to legal matters within the jurisdiction of the Board as permitted by § 2.2-3711.A.8 of the Code of Virginia. The following non-members were in attendance to reasonably aid the consideration of the topic: Demetrios Melis, Trisha Lindsey, Joseph Haughwout, and Joshua Laws. The motion to convene in closed meeting was with respect to the matter identified as agenda item X.a. Closed Meeting for the Purpose of Consultation of Legal Counsel Regarding Specific Legal Matters Pursuant to 2.2-3711.A.8 of the Code of Virginia. Mr. Durham seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Closed Session

At 12:33 p.m., Mr. Mercer moved that the Board adjourn the closed meeting and immediately reconvene in open session. Mr. Durham seconded the motion which was unanimously approved by: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Common Interest Community Board has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the *Code of Virginia* requires a certification by this Common Interest Community Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Common Interest Community Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Common Interest Community Board.

VOTE

AYES: Baker, Durham, Foley, Greenberg, Jonas, Mercer, Mulhare, Overholt, Shechan, and Waddell.

NAYS: None.

ABSENT DURING THE VOTE: None.


ABSENT DURING THE MEETING: Sterling.

There being no further business, the meeting was adjourned at 12:36 p.m.

Adjourn



Drew Mulhare, Chair



Demetrios J. Melis, Secretary

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Anne Sheehan
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 9, 2022

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Anne Sheehan
Signature

6/9/2022
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Eileen Greenberg
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 9, 2022

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Eileen Greenberg
Signature

6/9/2022
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Amanda Jonas
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 9, 2022

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I **do not** have a personal interest in any transactions taken at this meeting.

Amanda Jonas
Signature

6/9/22
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Matt Durham
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 9, 2022

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

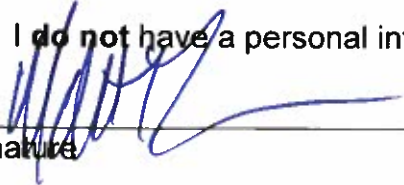
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

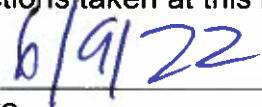
I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Signature



Date



**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Drew R. Mulhare
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 9, 2022

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

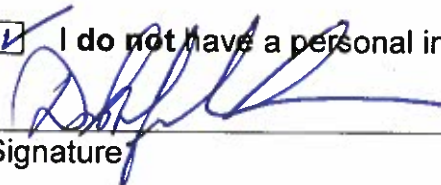
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Signature



Date

6/9/22

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Jim Foley
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 9, 2022

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

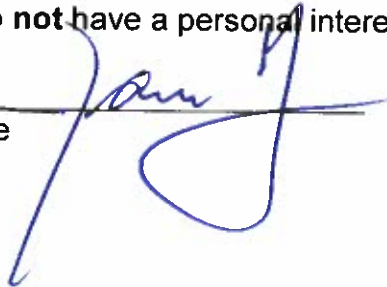
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Signature



Date

6/9/2022

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Katherine E. Waddell
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 9, 2022

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Katherine E. Waddell
Signature

6/9/2022
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Maureen A. Baker
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 9, 2022

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Maureen A. Baker
Signature

6/9/2022
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: David Mercer
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 9, 2022

5. I have a personal interest in the following transaction:

NONE

Nature of Personal Interest Affected by Transaction:

N/A

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Signature

Date

6/9/22

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Lori Overholt
2. Title: Board Member
3. Agency: Common Interest Community Board
4. Meeting/IFF Date: Board Meeting June 9, 2022

5. I have a personal interest in the following transaction:

None

Nature of Personal Interest Affected by Transaction:

none

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Lori Overholt
Signature

6/9/2022
Date

