



**Big Elk Meadows Association
Saturday, September 17th, 2022
Board of Directors Meeting Minutes
Board meeting held at Firehouse and Online**

09:11 Call to Order by President

- Quorum verification: Battaglini, Campie, Clevenger, Cyphers, Evertson, Isenhart, McCutchen, McDaniel, Saylor, Sommers.
- Board Members not in attendance: (Excused Absence) Mason, Sorenson
- Members in Attendance: C. Loomis, E. Murphy, K. Davis, L. MacLeod, D. Wray, B. Tolle, T. Bernstein, C. Faughnan
- Staff in Attendance: None, Flanagan PTO.
- Request for Executive Meeting: None
- Approval of Agenda: First Motioned by McCutchen and seconded by Clevenger, Discussion remove AD-Hoc off Common Area title. Cyphers called for vote. All in favor.
- Approval of August 20, 2022 Meeting Minutes- First motion by Clevenger and seconded by Campie. Cyphers called for vote. All in favor.

09:15 Member Communication

- C. Faughnan stated she appreciated all the work put in on the Annual Picnic.
- K. McLeland expressed via a conversation with Cyphers, he put fill dirt in slash pile from expansion and now needs it back for fill dirt on road.

Motion made by Clevenger to allow McLeland to get dirt from slash pile, at his own expense of, leaving slash area safe and with supervision by Operations. Seconded by Campie. Discussion, Cyphers calls for vote. All in favor.

- Cyphers presented conversation with E. Jacobsen on an Airbnb guest attempting to put household trash in the dumpster. Jacobsen's process of handling guests was discussed. Signage for Household trash for compactor needed.

09:42 Master Calendar

Board to work on BEMA Master Calendar for website, to keep Board and Members informed about Board actions and activities.

9:54 Communications Committee- Report given by Sommers and Cyphers. Sommers will be stepping down from the Board and Committees as of the end of this meeting. Sommers will still work on the IT for BEMA. Isenhart motioned Saylor as Communication Chair, seconded by Campie. Cyphers called for vote. All in favor. Website needs maintenance. Campie to do training on Goggle system to Board and employees.

10:09 Social Activities Committee – Report given by Campie. Picnic success and upcoming Historical Talk by Bobbie Heisterkamp and Hayride Oct. 8th. Signs on office for events needed.

10:14 Operations Committee -Report given by Cyphers. Battaglini motioned to move forward with readiness for redoing east tennis court and with the highest option estimate of \$76k, that the Board pre-authorize funding from reserves up to \$57k along with the \$19k in member's donation. Discussion amended it to \$38k as the Board had approved a match of the donations of \$19k. Seconded by Campie. Discussion, Cyphers called for vote. Isenhart and McCutchen abstain, everyone else in favor. Motion passed.
Sommers will work on monitoring cameras for areas in BEM.

11:03 Common Area Committee Report given by Battaglini. Motioned made by Battaglini: The Board authorizes use of available and appropriate BEMA rock to construct the rock band bordering the Andrews property (12 Mirror Lake Ct.). Seconded by Saylor. Discussion of no expense or use of Operations. Cyphers called for vote. All in favor.
Battaglini motion the Board to authorize a no-commitment conditional trial for 9 holes of Disc Golf setup in the meadows with stipulation that 8 of the target goals be unobtrusive flag sticks or ribbons and with just 1 regulation goal basket for member observation. Seconded by Campie. Cyphers called for vote. All in favor.
Upper Meadow survey showed ten more feet on West and East sides then is fenced. Fencing and gate work needed.
Battaglini motioned for \$2000 added to this year's budget for dead tree removal on common land. Seconded by Campie. Discussion, Isenhart to inventory dead trees needing attention. Cyphers calls for vote. All in favor.

11:42 Long Term Planning Committee Report presented by L. Loomis. Boulder Co. TDC eligibility in a Long Term Easement and Conservation Easements, were discussed. One concern was of perpetuity; the subjects were tabled until Octobers Meeting.
Forest Service Road permit is being submitted with supporting docs received from BEM Secretary, Saylor.

12:12 Finance Committee- Report presented by McCutchen. Capital Budget/Reserve with reference to Long Term Planning for Oct. Meeting.

12:28- HR Committee- Report presented by Isenhart.

12:30 Architectural Review Committee Report presented by Sayler. Ad-Hoc Committee setup for addressing new home and cabins guidelines wanted by Oct. meeting.

12:38 Incident Management – Report presented by Cyphers. Hickory Water Drainage/Grading Plan/ Completion update, Oct. meeting by Sorenson. Cyphers to acquire a bid from Hatrock Excavation for work. Cyphers to get quotes for 1032 Aspen on cleanup.

12:54 Governance Committee – Report presented by Battaglini and Clevenger. ‘Lodging’ documentation tabled until October meeting. Fire Rules presented and tabled for vote in October.

Clevenger motioned to accept Violation Policy as amended (amendment A attached) with cleanup of as presented to the Board. Seconded by Sayler. Cyphers called for vote. All in favor. Employee Handbook tabled until October meeting for vote.

Governance will take responsibility for addressing violations and letters signed by President. Sayler motioned that Covenants 4.14 changed to read: Except as may be provided for herein or as may be required by state law or legal proceedings, no signs, advertising posters, political placards or billboards of any kind shall be erected, placed or permitted on Common Lands of BEM without the prior written consent of the Board or its designee, except for reasonable and appropriate signs erected on behalf of BEMA. Seconded by Clevenger. Sayler amended to remove a, b, c, d from Section 4.14, Cyphers called for vote. All in favor.

1:04 Friends of Big Elk- Report presented by Evertson.

1:07 Firewise Committee – Report presented by Clevenger. We need to make sure we are protected as to what we request and enforce related to fire mitigation. Defensible Space Packet should be replaced with Firewise Pamphlet

1:31 Lake Health & Fish Habitat Committee- Report presented by McDaniel.

1:34 Water Rights Committee –Report presented by K. Davis. Presented letter from the Old Ish ditch company about turning their farm over to Future Farmers of America.

1:40 Unfinished and New Business

Isenhardt report on cost of narrower tables for the conference room.

McDaniel reports quality of online video and auto not good.

1:46 Adjourn Meeting: First motion by Sayler, second motion by Clevenger, all in favor.

Next Board Meeting is on Saturday, October 15, 2022 at 9:00 a.m. location TBA.

BEM Board Secretary
Devona Sayler

**POLICY
OF BIG ELK MEADOWS ASSOCIATION
REGARDING POLICIES AND PROCEDURES FOR COVENANT
AND RULE ENFORCEMENT**

- SUBJECT:** Adoption of a policy regarding the enforcement of covenants and rules and procedures for the notice of alleged violations, conduct of hearings and imposition of fines.
- PURPOSE:** To adopt a process for handling complaints and violations to the Governance Committee for fair dispositioning
- AUTHORITY:** The Declaration, Articles of Incorporation and Bylaws of the Association, and Colorado law.
- SCOPE:** The Board of Directors of the Association may from time to time adopt such policies in managing violations and complaints brought before the Board of Directors of BEMA, in order to facilitate the efficient operation of the Association.
- EFFECTIVE DATE:** September 17, 2022
- RESOLUTION:** The Association hereby adopts the following procedures to be followed when enforcing the covenants and rules of the Association:

1. Reporting Violations. Complaints regarding alleged violations may be reported by a member or resident within the community, a group of Members or residents, Board member(s) by submission of a written complaint.
2. Complaints. Complaints by Members or residents shall be in writing and submitted to the Board of Directors. The complaining Member or resident shall have observed the alleged violation and shall identify the complainant (“Complainant”) and complainant’s BEMA property address, the alleged violator (“Violator”) and the violator’s BEMA property address,, if known, and set forth a statement describing the alleged violation, referencing the specific provisions in rules or covenants which are alleged to have been violated, the date and time when the violation was observed and any other pertinent information. The Complainant should sign the complaint. Non-written complaints or written complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the Association.

Complaints by a member of the Board of Directors, a committee member, or the manager, if any, may be made in writing or by any other means deemed appropriate by the Board if such violation was observed by the Director or Manager.

3. Investigation Upon receipt of a complaint by the Association, if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by the Governance Committee. The Governance Committee shall: ensure the report is covered by the governing documents; draft letters to Claimant and Violator; create a work order for the Operations Manager if more information is needed and, once enough information is gathered, move to vote.
4. Initial Warning Letter. If the Board decides that a violation is found to exist, they will instruct the Governance Committee to prepare an initial warning letter documenting the violation, delivered as registered mail for tracking purposes, which shall be sent to the Violator explaining the nature of the violation. The violator will have 30 days from the date of the letter or such other reasonable timeframe as stated in the letter depending on the violation to come into compliance. The foregoing procedure will not be used in the event the violation is determined by the Board to be a Continuing Violation as defined in Paragraph 12 of this Policy. In such an event the procedure outlined in paragraph 12 shall be followed.
5. Second Violation After Initial Warning Letter If the alleged Violator does not come into compliance within 30 days (or such other time frame stated) of the initial warning letter, this will be considered a second violation for which a fine may be imposed following notice and opportunity for a hearing. A second and subsequent letter(s) shall then be sent via registered certified return receipt mail to the alleged Violator, providing notice of the continuing violation, the potential fine amount, and explaining if a continuing violation is found to exist, the potential fine may be imposed pursuant to this Policy.

The letter(s) shall further state that the alleged Violator is entitled to a Hearing on the merits of the matter provided that such hearing is requested in writing within 30 days of the date of the continuing violation letter. The foregoing procedure will not be used, however, in the event that the violation is determined by the Board to be a Repetitious Violation as defined in paragraph 12 of this policy. In such an event, the procedure outlined in paragraph 12 shall be followed. If a Violator is not in compliance and has not requested a Hearing, additional letters, fines and compliance checks could be required.

6. Notice of Hearing. If a hearing is requested by the alleged Violator, the Governance Committee, or other person conducting such hearing as may be determined in the sole discretion of the Board, may serve a written notice, via registered mail, of the hearing to all parties involved at least seven (7) days prior to the hearing date.
7. Impartial Decision Maker. Pursuant to Colorado law, the alleged Violator has the right to be heard before an "Impartial Decision Maker". An Impartial Decision Maker is defined under Colorado law as "a person or group of persons who have the authority to make a decision regarding the enforcement of the association's covenants, conditions, and restrictions, including architectural requirements, and other rules and regulations of the association and do not have any direct personal or financial interest in the outcome. A decision maker shall not be deemed to have a direct personal or financial interest in the

outcome if the decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the association." Unless otherwise disqualified pursuant to the definition of Impartial Decision Maker, the Board may appoint to act as the Impartial Decision Maker the entire Board, specified members of the Board, any other individual or group of individuals.

8. Hearing. At the beginning of each hearing, the presiding officer shall introduce the case by describing the alleged violation and the procedure to be followed during the hearing. Each party or designated representative, may, but is not required to, make an opening statement, present evidence and testimony, present witnesses, and make a closing statement. The presiding officer may also impose such other rules of conduct as may be appropriate under the given circumstances. Neither the Complainant nor the alleged Violator are required to be in attendance at the hearing. The Impartial Decision Maker shall base its decision solely on the matters set forth in the Complaint, results of the investigation and such other credible evidence as may be presented at the hearing. Unless otherwise determined by the Board, all hearings shall be open to attendance by all Members. After all testimony and other evidence has been presented at a hearing, the Impartial Decision Maker shall, within a reasonable time, not to exceed 30 days, render its written findings and decision, and impose a fine, if applicable. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the hearing committee's decision absent a showing of denial of due process.
9. Failure to Timely Request Hearing. If the alleged Violator fails to request a hearing within 30 days of any letter, or fails to appear at any hearing, the Impartial Decision Maker may make a decision with respect to the alleged violation based on the Complaint, results of the investigation, and any other available information without the necessity of holding a formal hearing. If a violation is found to exist, the alleged Violator may be assessed a fine pursuant to these policies and procedures.
10. Notification of Decision. The decision of the Impartial Decision Maker shall be in writing and provided to the Violator and Complainant within 30 days of the hearing, or if no hearing is requested, within 30 days of the final decision.
11. Fine Schedule. The following fine schedule has been adopted for all recurring covenant violations:

First violation:	Warning letter
Second violation:	(of same covenant or rule): \$50.00
Third and subsequent violations	(of same covenant or rule): \$100.00

Third and subsequent covenant violations may be turned over to the Association's attorney to take appropriate legal action. Any Member committing three or more violations in a six-month period (whether such violations are of the same covenant or different covenants) may be immediately turned over to the Association's attorney for appropriate legal action.

12. Continuing Violations. Continuing Violations are defined as a series of identical or substantially similar individual violations that occur repeatedly or continuously within a period of time to be determined in the discretion of the Board, with each individual violation separated by a period of no less than 1 day, nor more than 90 days, the result of which is a pattern of violations of the same covenant restriction.

In the event of such Continuing Violation, in the discretion of the Board, each instance of noncompliance may constitute a separate violation, and the Board shall not be required to provide a period of 30 days from each violation for the alleged Violator to come into compliance. A warning letter shall be sent for the first violation in the series. After the warning letter, the Board may cause violation notices to be sent for each violation in the series stating the amount of the fine to be imposed (pursuant to the Fine Schedule in paragraph 11), and giving notice and an opportunity for a hearing. The Board shall individually consider each violation for which a hearing is requested, but is permitted to combine any and all hearings requested for Continuing Violations on one date.

The Member will receive a warning letter on the first instance of the violation. On the second instance of the violation, the Member will receive a \$50.00 fine letter, and notice and opportunity for a hearing. On the third instance of the violation, the Member will receive a \$100.00 fine letter and notice and opportunity for a hearing. On the fourth instance of the violation, the Member will receive a \$100.00 fine letter and notice and opportunity for a hearing. If hearings are requested, the Board may set them all on the same date. Maximum fine imposed is \$450 for violations, not including the initial fine of \$50, maxing out at \$500.

13. Waiver of Fines. The Board may waive all, or any portion, of the fines if, in its sole discretion, such waiver is appropriate under the circumstances. Additionally, the Board may conditionally waive the entire fine, or any portion thereof, upon the Violator coming into and staying in compliance with the Articles, Declaration, Bylaws or Rules
14. Violations that threaten the Public Safety and Health. The Association may make a “reasonable” determination whether a violation threatens the public safety or health. Written notice of violation shall be delivered to the owner in English and any Preferred Language
- a. The written notice should inform the owner that the owner has seventy-two hours to cure the violation or the association may fine the owner.
 - b. The association has the right to inspect the unit to determine if the violation has been cured.
 - c. If the violation is not cured within seventy-two (72) the association may:
 - i. Impose fines on the owner every other day and
 - ii. May take legal action against the owner for the violation
15. Violations that Do Not Threaten the Public Safety or Health.
- a. Written notice of violation shall be delivered to the owner in English or any Preferred Language by certified mail, return receipt requested

- b. The written notice will inform the owner that the owner has thirty days (30) to cure the violation, or the association may, after an inspection and determination that the owner has not cured the violation, fine the owner.
- c. Before taking legal action against the owner for the violation the association shall grant the owner two (2) consecutive thirty (30) day periods to cure the violation.

16. Curing the violation by the homeowner:

- a. The owner may within the period to cure, provide visual evidence that the violation has been cured. This could be a photograph or an onsite inspection.
- b. If the owner does not include visual evidence, the association shall inspect the property as soon as soon as practicable to determine if the violation has been cured.
- c. If no notice from the owner that the violation has been cured is received by the association shall inspect the property within seven (7) days after the expiration of the thirty (30) days cure period. If the association determines that the violation was not cured after inspection:
 - i. A second (30) day period to cure commences if one thirty (30) period to cure has elapsed.
 - ii. If two (2) thirty (30) day period to cure have elapsed, the association may take legal action.

17. Notification of the Cure by Association

- a. Once a violation has been cured the association shall inform the owner in writing, both English and Preferred Language
- b. The owner will not be further fined for the violation and
- c. That a final outstanding fine balance is still owed to the association, if any, and what that balance is.
- d. Thereafter, monthly, the association has a relevant email address, and an itemized list should be sent in English and any Preferred Language. The itemized list should be delivered to the owner.

Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.

Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances, such as determining to turn over an account to an attorney immediately, or deciding to levy a different fine amount depending on the nature or severity of the violation.

Amendment. This policy may be amended from time to time by the Board of Directors.