Resident Rights, Mediation, and Community Action Plan

1. Action Items and Next Steps

1. Request Formal Mediation

- Have the HOA attorney formally submit a mediation request pursuant to the governing Declaration.
- Monitor the opposing party's response and ensure all applicable deadlines are met.

2. Collect Legal Fund Pledges

- Ask residents to submit pledge cards or contributions to raise approximately $7,500–$10,000 to cover legal fees, mediation, and related expenses.
- Establish a clear deadline for commitments and contributions.

3. Establish Financial Accountability

- Maintain a separate account for all legal fund contributions and expenditures.
- Provide regular financial reports on the Community Voices website, including contributions received, legal expenses paid, and any proportional refunds of unused funds.
- Ensure that all funds are properly documented and accounted for.

4. Improve Resident Communications

- Activate the messaging system on the Community Voices website.
- Expand the email distribution list to reach as many residents as possible.
- Provide regular updates through the website and email for residents who do not use Facebook or other social media platforms.

5. Compile Community Documentation

- Collect and organize records, photographs, resident complaints, construction deficiencies, infrastructure concerns, and maintenance history.
- Make this information available to attorneys, engineers, reserve study professionals, and future transition committees.

- Establish a centralized repository for community documentation.

6. Explore a Formal Resident Organization

- Evaluate establishing a formal resident organization or independent advisory body (sometimes referred to as a shadow board).
- Consider its governance structure, leadership responsibilities, recurring funding, legal representation, and long-term objectives.
- Develop a sustainable framework for representing homeowner interests.

7. Request Outstanding HOA Records

- Follow up on outstanding requests for meeting minutes, voting records, legal authority, and documentation supporting the director's removal.
- Seek clarification regarding the board's decision-making process and the applicable provisions of the governing documents and South Carolina law.

2. Resident Rights and Mediation

A. Removal of an Elected Director

The primary issue discussed was the removal of Tim Traynor, a resident-elected director, and the petition signed by 589 residents seeking information, transparency, and accountability.

Key points raised included:

- Tim challenged the declarant-controlled board's authority to remove a director elected by the residents.
- He referenced the association bylaws and South Carolina Code § 33-31-808, which he believes require members to remove an elected director through a meeting specifically called for that purpose.
- Residents emphasized that this dispute is about more than one individual. It concerns homeowners' fundamental rights to elect their representatives, hold them accountable, and participate meaningfully in community governance.

- Additional concerns included the civil-conduct resolution, missing meeting minutes, unclear voting records, denied document requests, and the possibility that the declarant could appoint a director if an election fails to achieve the required quorum.

The underlying concern is protecting residents' voting rights and ensuring that the governing documents and applicable state laws are followed.

B. Attempts to Resolve the Dispute

The group reviewed four previous attempts to resolve the matter without litigation. These included:

- Issuing a Notice of Claim.
- Meeting directly with Jack McSweeney.
- Requesting Tim's temporary reinstatement so he could resign voluntarily.
- Submitting formal records requests and seeking a procedural reset.

Despite these efforts, the dispute remains unresolved.

The group has consulted with an HOA-focused law firm and intends to pursue formal mediation under the governing documents.

Mediation is the immediate strategy.

The objective is to resolve the dispute without the considerable expense, uncertainty, and time associated with litigation.

Potential settlement terms discussed included:

- Acknowledgment that the director's removal process was improper, if established.
- A commitment to follow the association bylaws and applicable South Carolina law.
- Greater transparency in board decisions and association operations.
- Meaningful responses to homeowner questions and complaints.
- Greater resident involvement in future reserve studies and community planning.

Mediation is generally nonbinding unless the parties reach and sign a written settlement agreement.

If the opposing party refuses mediation or the parties cannot reach an agreement, litigation or other appropriate legal remedies, including an injunction, may be considered.

Participants recognized that litigation could take several years and potentially cost $50,000–$60,000.

C. Legal Funding and Financial Accountability

The group identified an immediate funding need of approximately $7,500–$10,000 for legal fees, mediation, and related expenses.

Residents were asked to submit pledge cards or checks by Sunday evening or early Monday to meet the anticipated response deadline, believed to be November 24.

Because a formal nonprofit organization or LLC has not yet been established, contributions are temporarily being collected by Tim.

To address concerns about financial accountability, Tim committed to:

- Maintaining a separate account for the funds.
- Providing detailed accounting of all contributions and expenditures.
- Publishing financial updates on the Community Voices website.
- Providing proportional refunds of unused funds, as appropriate.

A strong show of hands at the meeting demonstrated resident support for proceeding with mediation. However, sufficient financial commitments must still be secured to move forward.

3. Additional Community Concerns

Although the immediate focus is the removal of an elected director and the protection of resident rights, participants emphasized that the issues facing the community extend well beyond this dispute.

Additional concerns included:

- Construction defects and infrastructure deficiencies.
- Erosion-control failures and shoreline deterioration.
- Ongoing maintenance concerns and unresolved repairs.
- Reserve funding and the financial condition of the association.
- The need for an independent and comprehensive transition study.

The group agreed that these matters require continued documentation, investigation, and homeowner involvement.

There was also discussion about strengthening Community Voices through improved website communications, expanded email distribution, and a more organized system for collecting and sharing information.

A longer-term proposal is to establish a formal resident organization with defined governance, recurring funding, and access to legal and professional resources.

4. Outstanding Questions Requiring Clarification

The following questions remain important as the group moves forward:

1. Enforcement: Who has the authority and responsibility to enforce alleged violations of the HOA governing documents and South Carolina law?

2. Director Removal: Can residents remove an appointed director, and what procedures and voting requirements apply?

3. Mediation: What happens if the declarant or opposing party refuses to participate in mediation?

4. Legal Funding: How will future legal expenses, homeowner contributions, and financial reporting be managed?

5. Resident Representation: What organizational structure would best protect homeowners' rights and provide an effective voice in community governance?

6. Transparency: What records is the association legally required to provide, and what remedies are available when those records are withheld?

5. Moving Forward: Priorities

The discussion established several immediate priorities:

- Secure the necessary legal funding.
- Have the attorney initiated formal mediation.
- Obtain outstanding HOA records and supporting documentation.
- Maintain transparent financial reporting.
- Strengthen Community Voices communications and resident participation.
- Develop a longer-term structure for independent homeowner representation.

The overall objective is to protect homeowners' rights, promote transparency and accountability, and ensure that residents have a meaningful voice in decisions affecting their community.

This effort is not simply about resolving the removal of one director. It is about establishing a foundation for responsible governance, protecting homeowner interests, and creating a stronger, more informed, and more united community.

Editorial note: I have presented the legal arguments as positions raised during the meeting, rather than established legal conclusions. The attorney should verify the applicability of the cited statute, governing-document provisions, and mediation requirements before these statements are presented as definitive legal findings.