

## Q& A

This is a list of Questions & Answers prepared by the Board of Directors. It will be updated each week with new Q&As after the scheduled Tuesday evening 7pm meetings. There is one Sunday afternoon meeting at 3pm on October 14th.

**Updates to previous weeks Q&A's are noted below in red.**

**In addition to information posted on SMS's website and on social media, the Board will begin emailing important information to Lake Cyrus residents with email addresses on file with the HOA. If you want to stay updated on all HOA information, email**

**[info@selectivemgmt.com](mailto:info@selectivemgmt.com)**

**with your name and Lake Cyrus address.**

### Q&A UPDATE as of October 10, 2018

**1. If the HOA buys the Club, how are we assured that there will be a Turnover and a playground?**

All three parts of the Proposal will occur simultaneously, with executed contracts to guarantee performance by all parties. Also, our covenants will be amended to reflect the changes.

**2. Is the HOA incurring any of the Club's liabilities?**

No, the HOA is purchasing the real property only. HOA is not purchasing the operating business, its debts or liabilities.

**3. What are the terms of the SMS, the current association management company's, contract with LCHOA?**

Either party can terminate the SMS contract with 60 days written notice.

**4. Will an Attorney represent the HOA?** The Board will retain a real estate attorney to represent the HOA in all aspects of the Proposal.

**5. Is the \$60,000 enough for a playground?**

The playground was a gift offered by the Developer so that the playground could be built as soon as possible. The Board was grateful to have it as part of the Proposal and we are currently in the process of getting proposals.

**6. How will the Club (pool, tennis, gym, clubhouse) be managed and operated once the HOA takes over?** The Board and volunteer or appointed committees will work together to establish how all aspects of operations and management will be determined going forward.

**7. What happens if the second and third appraisals are lower? Will that change the \$400 increase?**

The Board will take the appraisal they have ordered, and their inspection report and meet with the seller to negotiate a final contract. If an agreement is reached, the Board will run a new mortgage payment calculator, verify it with the bank, and determine if any changes can be made to the \$400 increase.

**8. Will the Board make an offer lower than the appraised value?**

The Board intends to negotiate fairly and does not want to pay any more for the property than a fair and reasonable price.

**9. Will the Club parking lot be sealed before the purchase?** The parking lot will be part of the inspection of all the Club property and, with the HOA's appraisal, will be the basis of the Board's final negotiations with the seller.

**10. Who will be in charge of the pool, its finances, upkeep, and maintenance? Will homeowners have a voice in what happens with day-to-day operations?** See # 6 above.

**11. Why hasn't a playground already been built?** Because of the size play ground we need and the desire to have it in a central location, the most logical place to put it is on the Club property so that there is plenty of space and adequate off street parking. The Club property has always been privately owned. It would not have been responsible to spend HOA money to build an asset on privately owned property.

**12. If this HOA increase is approved, will we be able to pay the \$800 monthly?**

SMS, our management company, has been working with their software provider and bank for the past several months to make monthly reoccurring bank drafts available to all the associations they manage. They expect this option to be available for 2019. It will work much like setting up an auto-pay for your power bill and will also be available to the Gated Association's residents for their total annual payment. More details will be communicated once we have a decision on the Proposal.

**13. How can the HOA be asked to pay \$1.3 million for the club when the seller only paid \$600,000 to get it out of foreclosure?** The legal description of the Club's property was, through a bank error, included in the foreclosure on a group of lots on Parkside Circle during the housing crisis. When the developer redeemed the Lots, the Club was automatically released. Nothing was paid to release the Club. The money paid was to redeem the lots.

**14. How many lots does the Developer own and does the Developer get to votes for these lots?**

The Developer owns 9 lots and has the right to vote on each of those 9 lots, but announced that she will abstain from voting on this Proposal.

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## October 4, 2018

**1. How can I vote on this Proposal when I do not know how much the purchase price is and that the \$400 increase in dues is necessary?**

Your vote is on the HOA purchasing the Club and the dues increasing to \$800. The vote is NOT agreeing to a purchase price for the Club. The Board will take the responsibility to finalize the deal and the final purchase price.

This is the Board's plan.

1. **Receive the second appraisal** in a few weeks and meet with the seller to **finalize a price**. Board has no interest in paying any more than the fair market value for the Club property.
2. If a price is agreed to, the Board will **order an inspection** of all the Club property. Any significant issues found will be a contingency in the final contract.
3. Once contingencies, if any, are **agreed to**, we will have a **final contract** and the Board will meet with the bank to finalize the financing.
4. **Title and Survey have already been received** and title will be updated prior to closing.
5. The Board will hire **legal counsel to represent the HOA** in this transaction.

**The \$400 increase** is based on the operating expenses of the Club, the mortgage payment and a comfortable cushion for Reserves. The proposed \$400 increase in dues for 2019 is necessary and sufficient to cover these expenses and **CAN NOT** increase because this increase is what you are voting on. The Board

does not expect the second appraisal to be significantly different from the initial one and therefore expects the \$400 increase to remain necessary and sufficient.

## 2. What is the rush to make this decision? **UPDATE**

Homeowners have until November 2, 2018 to decide on this proposal. The Board must be able to determine what the 2019 Annual HOA dues are going to be in a reasonable time frame to get financials, budgets and assessment letters out to all residents in January. **Residents are encouraged to attend the October meetings to get all their questions, comments and concerns addressed by the Board so that they can make an informed decision.** Our first meeting was very informative and productive. **The Board mailed a letter to all residents on 10-10-2018, announcing a delay in the voting process in order to communicate additional information on this Proposal. Please refer to your letter for details.**

## 3. What exactly are we voting on?

The ballot states:

***“ Purchase of the Lake Cyrus Swim and Tennis Club by the Association, which will result in an increase in annual assessments to \$800 in calendar year 2019 and subsequent years thereafter. ”***

**Check FOR or AGAINST**

More simply stated:

1. Do you agree that the HOA should purchase the Club? No specific price is stated; the Board will negotiate the final deal.
2. Do you agree to a total annual assessment (dues) of \$800? Cannot be more because it is what is being voted on.

That is the Vote. What comes with it is knowledge and understanding that this action will then cause the Turnover of the HOA and the installation of a playground.

## 4. How will votes be collected and counted?

Your ballots can be **mailed to SMS**, (Please mark the outside of your envelope **“BALLOT”** so that they will not be opened) or **give it to a Board** member at any of the October meetings in a sealed envelope marked **“BALLOT”**. Envelopes will be provided at all the meetings.

All ballots will be delivered to an independent CPA firm chosen by the Board that has no business with the HOA, Developer, or any Board members. The CPA firm will be given a list of members in good standing who are eligible to vote, with their names and addresses. The firm will take that list and verify it against the name and address on each ballot and count only one ballot per household. Results of the count will be reported to the Board.

## 5. How many residents are not in good standing?

About 100+ residents are past due, which is about average for our size HOA. About half of them are past due for 2018 only. All of them are being notified and given an opportunity to resolve their accounts. Those that do by October 31, 2018, will be able to vote.

## 6. How is the 51% vote determined? Can it be adjusted to make this vote pass?

Best way to explain this is by example: If there are 1,000 members of the HOA of which 900 are in good standing, then it will take 51% of 900, or at least 459 YES votes to pass this Proposal.  $459/900 = 51\%$ . If we don't reach 51%, the Proposal is ended. Neither the Board nor the Developer will amend the covenants to lower the quorum needed for this vote.

## 7. Will we be able to make payments on the \$800, or on our total HOA dues if I also belong to a Gated Association?

The Board will work with SMS and the bank to offer payment plans. Those who elect payment options may incur typical bank fees.

**8. Who is the bank?** BBVA Compass who has no business activity with the HOA, Developer or SMS.

**9. Who will manage the Club?**

The Proposal budgets for a full time Club Manager to be responsible for the day-to-day management, operations, upkeep and maintenance of all the Club's property under the supervision of the Board or a special Club committee appointed by the Board. The tennis courts are currently maintained by the tennis pro. If this Proposal happens, the Board will be able to make any changes to the way the Club operates, subject to County Health Department requirements.

**10. Why do we need pool attendants and lifeguards? When will the Club be open?**

Pool attendants will coordinate their time with the Club Manager to cover all duties for the Club's 70+ hour work-week. Lifeguards, as a safety precaution, are budgeted only on weekends and special event days when more activity is expected. The Board or committee they appoint will determine the hours of operation and pool's opening and closing dates.

**11. Why does the Developer want to go through the Turnover now?**

Over the past few years the Developer has completed development obligations to Lake Cyrus and the City of Hoover (example; seal coating all roads). Although the Covenants do not require a Turnover until the Developer is sold out of property, she is agreeable to an early turnover. A Lake Cyrus resident suggested to her the idea of selling the club and bundling it with the turn over of the HOA. Since the Club was renovated in 2015, the idea warranted further discussion with the Board. Those discussions developed into this Proposal.

**12. Can I be exempt if I have a pool in my backyard?**

The Master HOA is the umbrella Association for all Lake Cyrus residents including the Gated Associations. However, residents with existing pools on their property can enjoy the other benefits of the Club (tennis courts, gym, clubhouse for social activities).

**13. When and how will the Gated Associations be turned over?**

Once this vote is complete, regardless of the outcome, the Developer will communicate with the residents of the Gated Associations and ask for two volunteers from each to serve with the Developer on an Interim Board of Directors. Turnover for these Associations will occur in conjunction with the Master HOA.

**14. Do I need to notify my mortgage company of this change?**

Since every mortgage is different, we suggest you contact your mortgage company, discuss the possibility of this change and ask them if they need to be contacted should this vote pass.

**15. Many residents believe that the Club was part of the Lake Cyrus HOA in the beginning, and then changed to private club. Are we now being asked to pay to have it an HOA amenity again?**

**INCORRECT** - The Club, since its inception, has always been a PRIVATE club. Residents who belonged to the club from the beginning made separate payments each year, one to the HOA and one to the Club. Over the years, many Lake Cyrus builders offered incentives to new homebuyers. These incentives often included a one-year membership to the Club. However, that incentive depended on the individual builder.

**16. Will there be a second vote once due diligence is complete - i.e., additional appraisals, inspections, title search?**

The Board will complete the due diligence and final negotiations on the Proposal, including the final purchase price. There will not be a second vote; however, whatever is determined by the due diligence, the 2019 dues cannot increase to more than \$800 because that is what was voted on. If the final negotiated purchase price is accepted, the Turnover and Playground will happen.

**17. How did this Interim Board get appointed?**

The Interim Board was formerly the Advisory Committee (AC) who volunteered in 2015 to assist the Developer in managing the affairs of the HOA. The Developer, as required by the Covenants, asked the AC if they were agreeable to serving as an Interim Board to facilitate this transition and hold the election of a new “elected board” sometime in 2019 after the Turnover. Covenants require it to be done this way to allow the Developer to resign from the Board at Turnover and the Interim Board take over. Three of the members have served since 2015 and four have joined over the past two years as positions became available.

**18. Can we have a Turnover without buying the Club?**

No, the proposal is a package. The Turnover however, will eventually occur.

**19. What involvement will Developer have with HOA after the Turnover?**

The only involvement the Developer will have is control over Architectural Review Committee (ARC) **on new construction only**. This is a commitment all Developers make to their builders when they invest millions in their community and is a standard in the industry. This retained ARC control will have no consequence on the management or operations of the HOA.

**20. Can I go to any of the meetings in October?**

Yes. We separated the meetings by street to manage the number of homeowners attending because there is limited seating. We ask that you try to make your assigned meeting, but come to the one that is convenient to your schedule. These meetings are very informative and offer you the opportunity to get answers from your Board members.

**21. Is any real estate company or brokerage firm representing the buyer or seller in the sale of the Club?**

No, however the HOA will have legal representation on the Club sale.

**22. What happens if there are not enough votes to pass this Proposal or the result is a NO vote?**

The Interim Board will continue, there will not be a Turnover or Playground and the Club owner will pursue other options for the Club property.

**23. How does this change affect the McGill Crossings residents and why is it they are allowed to use the Club?**

In 2016 the Club and the Developer of McGill Crossings signed an agreement to allow McGill residents access to the Club. The McGill Developer agreed to pay the Club an amenity fee and annual club dues. McGill does not have a Club amenity on their property. There will be a total of 97 McGill residents when that community is sold out. This past summer 40 McGill residents had access to the Club. Our club’s sign-in records show that the same 6-8 families actually used the Club. If this Proposal passes, the HOA **might** be able to terminate this agreement, but it would be a legal battle for the HOA. Our financial projections anticipate the McGill HOA will pay to the LCHOA over \$50,000 in amenity fees over the next 3 years and \$34,000 per year in annual dues. The Board made the decision that, if this Proposal passes, it would be in the financial best interest of the LCHOA to keep this agreement in place. Board also agreed it was the right thing to do.

**24. What is the current lawsuit against the HOA?**

Although the HOA has not received the lawsuit, this is what we know. In 2012, McKay Management failed to pay property taxes on the Dog Park parcel near Parkside Circle and that tax bill never got transferred to SMS. A tax investor started paying the taxes and is now legally owed \$302.50 for the taxes and interest to date. He asked for \$1,850 to avoid a lawsuit. Since this investor is trying to extort the HOA, the Board agreed not to pay him. This case does not in any way concern the Club property or any other aspect of the Proposal.

## **25. Referring to the 2019 Estimated Operating Expense and Debt Service Budget:**

### **Why do the maintenance and supplies budget double and the total annual expenses almost triple?**

The maintenance and supplies budget, and all other variable expenses, are adjusted to account for increased usage. The maintenance and supplies budget also includes additional furnishings, i.e., more pool chairs. The largest increase to the total annual budget number is the mortgage payment that would result from the loan used to purchase of the Club.

### **General Comments/Issues**

1. The Club purchase, Turnover and Playground are financially dependent on each other, based on the current appraisal, and the bank's final underwriting. Note, although the bank may require their own appraisal during their final underwriting process, they have made their offer based on the current appraisal and the financials of the HOA.
2. The Gated Associations are separate legal entities. They file separate tax returns. The dues collected for the supplemental Associations (\$175, \$350, \$500) are held in separate bank accounts and separate reserve accounts. Their largest budget item is the reserve for their private roads. City of Hoover will not repair any damage to their roads, curbs, inlets etc. as they are considered private.
3. There was some discussion about how an \$800 annual HOA fee is out of line for a 3 bedroom 2-bath house and is more appropriate for a 4+bedroom 3+ bath home. HOA fees are not based on home size or value but instead are determined based on what amenities are offered, and the amount of common areas maintained. Those are the elements that determine the operating budget and that budget determines the amount each homeowner pays.
4. According to our covenants, only one vote is counted per household even if the home is jointly owned.
5. If this vote passes, the rules and regulations, hours of operations, dates the pool will be open, how ID cards or whatever means are used to identify people as Lake Cyrus residents, and all other day-to-day operations of the Club will be determined by the Board or a committee they appoint to oversee the operations of the Club.