**Bonita National Golf Club, Inc.**

Special Board of Directors Meeting

March 9, 2020 at 4 PM

At the Bonita National Clubhouse

17671 Bonita National Blvd

Bonita Springs, FL 34135

1. **Call to Order, Establish Quorum, and Proof of Service:**

Board President Larry Troutman called the meeting to order at 4 pm. A quorum was established. Directors present were: Larry Troutman, Jim Zyskowski, Peggy Hanson, Ed McQuaid, John Moran and Robert Pacheco. Board Secretary Jim Zyskowski confirmed that the agenda was posted in the clubhouse in accordance with Florida Statutes.

**2**. **Opening Statement:**

President Larry Troutman stated that the only item on the agenda is the Status of the Golf Common Areas. This Special Meeting was called by the Board to provide factual information to the Membership. No other issues will be discussed.

**3. Status of the Golf Common Areas:**

**(a)** Director Ed McQuaid stated that:

(1) The Bonita National Community is made up of three distinct entities; the Bonita National Golf Club, the HOA and the CDD,

(2) The issue here is between the BNGC and Lennar not the BNGC and the HOA,

(3) The BNGC Declaration, Section 3.1 states “The Golf Club shall operate, maintain and, if deeded by the Declarant, hold record title to the Golf Club Common Areas.” The reason for this is the Club House which has two major uses; (a) the pro shop, locker room and cart facilities which are designated in Section 3.1 as Golf Club Common Areas and (b) the remaining areas which are HOA Common Areas. Lennar could have deeded the Club House jointly to the Golf Club and the HOA, but they didn’t.

(4) The HOA Declaration, Section 1.7 defines common areas to mean: “any and all real property and improvements within Bonita National owned by, leased to or dedicated to the Association for the use and benefit of its Members, however, the golf course, golf practice area and the related facilities are not Common Areas”.

(5) When the community is built out, all 1459 Members of the HOA will have the use and benefits of the HOA Common Areas, but none, as HOA Members, will have the use and benefit of the Golf Common Areas.

(6) The BNGC is not a public facility. Only BNGC Members are permitted to use the golf course and Golf Club Common Areas.

(7) From July, 2018 to February 2019 the Golf Turnover Committee worked with Lennar in the same manner as the HOA Turnover Committee has done. Lennar provided a charge of $387,000 to the Golf Club for the shared Club House and other facilities and shared service providers. When questioned, Lennar responded, after several months, by reducing the Club House and facilities costs, but increasing the wage component so that the number remained $387,000. Certain components such as the fountain in front of the Club House and beach shuttle service should not be charged to the BNGC. These are legitimate costs for the HOA Membership as a whole, not the BNGC.

(8) The Cost Sharing Agreement is signed by two Lennar employees, one representing the BN HOA and the other representing the BNGC.

(9) The initial Cost Sharing Agreement is undated and does not mention the golf practice areas, because Lennar was going to deed those areas over to the Golf Club as Golf Common Areas.

(10) Research of the property records for Lee County showed that the putting practice area and the driving range were in a folio slated to go to the HOA. Lennar admitted the mistake and said that they would fix it.

(11) At Turnover each Resident BNGC Board Director received a binder which purported to contain all of the documents required to be turned over by the Lennar with the exception of the deeds. The Cost Sharing Agreement was placed behind the Declaration and By-laws rather than in the contracts section. The First Amendment to the Cost Sharing Agreement was not anywhere in the Director’s binder. It was only placed in the official binder given to ICON as the keeper of official records.

(12) The First Amendment to the Cost Sharing Agreement was again signed by two Lennar employees, one representing the BN HOA and the other representing the BNGC.

(13) In an email from Lennar dated January 2, 2019, Mr. Koratich clearly stated Lennar’s intent to subdivide the “parcel to carve out the practice facility and the cart path to go to the Golf Association.” Further he stated that “We are already undertaking the process”.

(14) Finally on November 20, 2019, after numerous requests by this Board and our outside counsel, Lennar provided the deed to the golf course and chipping practice area.

(15) Efforts to obtain the remaining deeds continued until on February 28, 2020 Lennar’s counsel sent a letter to the BNGC counsel announcing that Lennar had no intension and never had any intension, of providing the deeds for the driving range and putting practice area because they did not wish to get in the middle of a dispute between the HOA and the BNGC. This dispute is between Lennar and the BNGC, not the BNGC and the HOA.

**(b)** Director Bob Pacheco made a motion, 2nd by John Moran, to pass a resolution formally requesting the new HOA Board join with the Golf Board to move Lennar to deed over the remaining two areas, the putting green and the driving range, to the Golf Club as the documents show Lennar had intended to do. With all in favor the Motion Passed.

**(c)** Director Jim Zyskowski stated that there are legal issues with the Cost Sharing Agreement, particularly the First Amendment:

(1) HOA Declaration Section 8.2 states “Declarant will initially hold title to the Common Areas”. These are the Common Areas for the HOA not the Golf Common Areas.

(2) As of 9 am on March 4th Lennar Homes LLC still held title to all the HOA Common Areas and the two Golf Common Areas in question.

(3) The issue therefore is whether the HOA could grant anything to the Golf Club regarding the practice facilities since the HOA did not hold title or have an expectation of a future benefit regarding the putting practice area or the driving range. One cannot sell, gift or otherwise legally transfer that which they don’t actually have.

(4) The cure is simple. Lennar merely needs to divide the parcel and issue a deed to the Golf Club for the practice facilities as they had said they were going to do.

**4. Questions from the Membership:**

The Board heard and responded to questions from Members relative to the subjects discussed during the meeting.

**5. President’s Comments:**

President Larry Troutman noted that countless hours have been spent by the Board and the BNGC’s outside counsel trying to bring this issue to an end. He stated that the BNGC is hopeful that with the aid of the HOA Board we will be successful. Members were encouraged to continue to provide their comments and suggestions to the Board.

**6. Slide Presentation:**

The slide presentation, Exhibit A, is attached hereto and made a part hereof.

**7. Adjournment:** There being no other business, a motion was made by John Moran, 2nd by Jim Zyskowski, to adjourn the meeting at 5:01 pm. With all in favor, the Motion Passed.

James Zyskowski, BNGC Secretary Date