

## April 2021 ACC Newsletter Addendum

A letter was sent to owners of Dixie Springs lots wanting to get you to vote to a change in the Dixie Springs CC&Rs. The ACC is not against a change if the community desires it, but are very concerned about the misinformation in the letter. We believe if you are voting for something so important to the community, you should have the facts.

Be aware that if the ACC is eliminated immediately, and the CC&Rs eliminated in 10 years in accordance with the current petition to change the CC&Rs, the City of Hurricane will not enforce the Dixie Springs CC&Rs. The City of Hurricane will not and cannot legally enforce any CC&Rs on any community in Hurricane. The City of Hurricane does not even enforce their own ordinances consistently. The residents of Dixie Springs will only be able to enforce the CC&Rs through a lawsuit against a neighbor. The advantage of having the ACC enforce the CC&Rs is they have the ability to assess fines. Also, most residents do not want to have to sue their neighbors and would rather have the ACC handle the issue.

Eliminating the CC&Rs also stops any review of homes to the CC&Rs. For example, a builder could build a 900 ft<sup>2</sup> house. The City of Hurricane would allow it. A lawsuit from a community member to a builder would be required, and by the time that was resolved, the house would long be built, and the only remedy would be to tear it down.

By eliminating the ACC, you are essentially getting rid of the CC&Rs because they are practically unenforceable without the ACC. It is highly unlikely that someone will spend the time and money to sue a neighbor over CC&R violations. Therefore, signing the petition to change the CC&Rs makes the CC&Rs ineffective.

We will go through all of the misinformation and provide you the correct information.

- The ACC Corporation was created to act as an association for Dixie Springs

Not true. The corporation was created to legally protect the ACC board members and to allow the ACC to purchase officers and board insurance.

- The ACC is not properly maintaining financial records

Not true. The ACC keeps all of its records in QuickBooks and uses an accountant for the yearly taxes.

The current ACC board spent many months looking into a discrepancy between the ending balance in the 2017 taxes, and the beginning balance of the 2018 taxes. The accountant that was hired to do the 2017 taxes made an incorrect entry on 1/1/2018. The board that started June of 2018 made sure that everything balanced with the checkbook but were not aware of that entry. The ACC board that served from June 2018 to June 2020 used a different accountant for the 2018 and 2019 taxes and he did not notice the discrepancy until the current board brought the documentation to him. This accountant corrected the taxes as needed and sent amended tax documents to the IRS. The letter from the accountant can be seen at this link:

<http://dixiespringsacc.org/docs/20182019ReasonForTaxChange.pdf>

- The ACC enforces CC&Rs selectively

The ACC consists of 3 members for 1390 lots. Therefore, they must decide which violation to prioritize. Their priorities can be seen on this page:

[1 DixieSpringsACCEnforcementPriorityPolicy.pdf](#)

- The ACC misstates information

The ACC takes its responsibilities very seriously and gathers information from the community and professionals in order to provide the community with correct information.

- The ACC has sued an owner over a wall simply for challenging their authority. Also, there are many other like walls.

This is not accurate. The wall was raised during the tenure of the previous board. This board tried to talk to owners about taking the wall back down to 6 feet above ground level, but they would not make any changes. The increase on the wall height also violated what was approved by the City of Hurricane. Also, there are not many walls like this one. There are many walls taller than 6 feet, but they are 6 feet from the higher side.

To see a detailed discussion of the wall issue and the supporting documentation, please see the following link:

[20200910Newsletter.pdf \(dixiespringsacc.org\)](#)

- Carried out an 18-month slander campaign against one owner

None of this is true. Actually, it is the ACC who has been unfairly and personally attacked and defamed. This person was named in a previous newsletter because that person had already posted that information on Facebook.

- A number of issues with the change in the by-laws

The ACC took the change in the by-laws very seriously, but there was no choice. The original by-laws were not written correctly and had to be modified. Since you cannot force people to be members of a corporation, legally the ACC did not have any members except for the members of the

board. Therefore, the by-laws had to be changed. However, the by-laws are subservient to the Dixie Springs CC&Rs and the new by-laws state that.

The bylaws are not restrictions on the lot owners of Dixie Springs – they are restrictions on how the ACC board operates.

The ACC's Bylaws were originally adopted in 2016. They were written to make each lot owner in Dixie Springs subject to the Bylaws, and they treated lot owners as the membership of the ACC (though not as members of the ACC's Board of Directors). However, in order to be a member of a nonprofit corporation, and therefore governed by its bylaws, you must give your consent. No one in Dixie Springs consented to be part of the membership of the ACC in 2016.

Consequently, the 2016 Bylaws needed to be modified to reflect that the ACC has no membership. The Board recently adopted new, amended Bylaws, which it was allowed to do under the 2016 Bylaws. The new Bylaws haven't changed the fact that lot owners will vote for members of the Board, but the timing of the voting process is different. The ACC cannot afford to have elections every two years, and no Board should be completely replaced at every election. Therefore, elections will be held every three years and no more than half the Board will be replaced at each election.

You can see the updated bylaws on this page: <http://dixiespringsacc.org/information.htm>

In order to continue to be transparent, the ACC will provide the year end accounting statements to whoever requests them, even though it is no longer required. You can also ask the ACC questions by using their email, [acc@dixiespringsacc.org](mailto:acc@dixiespringsacc.org).

- Drones are being used to spy on owners

The ACC does not own a drone and has never used a drone in its duties.

- Corporate positions are no longer required to be voluntary

Any member of the Dixie Springs ACC can resign at any time. The by-laws state:

“Any Officer may resign his or her office at any time, such resignation to be made in writing and to take effect immediately without acceptance by the Corporation.”

- The Board can dissolve and divide the funds among themselves

Not true. The by-laws state:

“The Corporation may be dissolved only upon adoption of a plan of dissolution and distribution of assets by the Board that is consistent with the Articles of Incorporation of the Corporation and the Act.”

The funds are very restricted in where they can go. They cannot go to the board members, and they cannot be used for things like the park. The ACC would need to work with the attorney to determine where the funds could go.

- The fee for the review in the house plans has increased from \$150 to \$300

This is true but costs have increased over the years. The builders currently pay \$300 per home for the review of the plans.

- The ACC is not accountable to owners, but owners are subject to the Corporation

Not true. Owners are subject to the CC&Rs, not the corporation. The new bylaws were modified to make it clear owners are not members of the corporation. The ACC is subject to the CC&Rs. The

ACC is established by the CC&Rs and conducts its business in accordance to the CC&Rs. The ACC is elected by the owners.

- You are not allowed to make changes to the outside of your home without permission of the ACC.

This is true. But the ACC does not overreach and focuses on major changes.

We hope that this information helps.

Dixie Springs ACC