

Ad Hoc Entity Structure Committee Charter

September 20, 2023

Whereas, Spanish Well Community Association (SWCA) is organized as a not-for-profit HOA under Florida law; and

Whereas, commencing in 2018 SWCA commenced a for-profit business commonly referred to as Spanish Wells Country Club and/or Spanish Wells Golf and Country Club; with a professional management organization to operate it; and

Whereas, as owner, SWCA has a fiduciary duty to maintain and preserve the value of its capital assets, including its grounds, buildings, and golf course; and

Whereas, SWCA has entered into a loan agreement. The loan agreement binds SWCA and its board of directors to certain fiduciary duties in regard to the financial management of SWCA and the care and maintenance of the assets of SWCA; and

Whereas: The board of directors of SWCA is bound by a fiduciary duty to the Residents under the organizing documents of SWCA and according to Florida; and

Whereas, SWCA has a fiduciary duty to operate the HOA and business to the residents and under the loan documents as aforesaid with the goals to maximize profit and governance efficiency and to protect SWCA from financial liability; and

Whereas, the current organizational structure may not be the best to achieve those goals and there may be an alternative organizational structure, which may include the creation and integration of another entity (or entities), that would prove beneficial to SWCA.

Resolved: The SWCA board approve the establishment of an ad-hoc entity structure committee to evaluate how best SWCA should go forward as an HOA as a Not for Profit and with a For Profit Business; with the goal to reduce SWCA (Homeowner) risk and Liability, governing efficiency (minimize Accounting and tax complications) and maximize profit.

PURPOSE: The purpose of the committee is to evaluate the current organizational structure and determine whether the addition of a new business entity for the for-profit business is warranted. The goals are to reduce homeowner liability, simplify legal, tax, accounting structures/processes, while maximizing profit. If the BOD determines after evaluation, that proceeding is warranted, the committee will be charged with the creation of the new entity pursuant to the guidance of the BOD.

Composition of the Committee

1. The chairman of the Committee will be appointed by the Board, will be a full-time community resident with experience in the law, legal matters, governance issues and bylaw/covenants.
2. There may be up to six additional members of the Committee, identified, recruited and named by the Chairman all, to the degree possible, possessing experience or expertise in corporate law or in business formation or business governance.
3. The SWCA president and SWCA Treasurer are ex officio members of the committee

Meeting schedule:

1. The Committee will meet, either in person, telephonically, or via zoom on a scheduled determined by the committee chairman.

Methodology

1. Evaluate current organizational structure
2. Investigate various forms of entity structures.
3. Use professional consultants as necessary.
4. Report findings and recommendations to the board.