

**Fountain Hills Community Association  
Board of Directors Meeting  
January 7, 2010**

The Board of Directors of Fountain Hills Community Association held a Board of Directors Meeting at the Upcounty Regional Services Center on Thursday, January 7, 2010 at 7:30 p.m.

**Board Members Present:**

Vernard McBeth, President  
Nicolm Mahabir, Vice President  
Daryl McFadden, Treasurer  
Frank Walsh, Secretary  
Brandon Dart, Director  
David Holtzman, Director  
Steven Muse, Director

**Also Present:**

Stephon Collins, Community Manager  
Craig Wilson, Vanguard Management  
Ruth Ann Allen, Recording Secretary

**Homeowner Present:**

Siu Poon, 19020 Noble Oak Drive

**A. CALL TO ORDER**

The Board of Directors Meeting was called to order by Vernard McBeth at 7:32 p.m.

**B. REQUEST TO SUSPEND RULES AND AGENDA**

**MOTION:** (Vernard McBeth/Steven Muse) Suspend rules and agenda due to need to discuss important items of business.

Vernard McBeth noted that the reason to suspend the rules and agenda was in order to discuss the dispute of the Board presidency and the format of the agenda.

Mr. Holtzman inquired why actions needed to be changed as the first issue on the agenda is the dispute over the president position.

**Vote:** Motion Passed - 4 ayes, 2 nays (Holtzman, Dart), 1 abstention (Walsh)

**C. DISPUTE OF BOARD PRESIDENCY**

David Holtzman stated that the community's by-laws, declarations, and covenants state that the Board President must be a lot owner.

Vernard McBeth stated that until the situation is resolved, and in spite of support of the majority of the Board, he would step down as Board president, and Mr. Mahabir would serve as president.

David Holtzman stated that since Mr. McBeth is not a lot owner he does not qualify for Board president, and therefore, the position is not his to relinquish. On December 3, 2009, the date of the election there were two (2) candidates for presidency. The one candidate who did qualify for the president position should have been elected; therefore, Mr. Holtzman should have been elected president and there would be no dispute. The election as done was not a proper election.

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**MOTION:** (Steven Muse/Daryl McFadden) Accept offer of Board president, Vernard McBeth, to step down.

Vernard McBeth stated that he is willing to step down in order to have time to correct the deficiency on the deed.

David Holtzman questioned where the Board has the authority to have a temporary president. Mr. McBeth stated that Mr. Mahabir would be filling the role of president.

Nicolm Mahabir stated since the current Board President is willing to sign forms to have his name on the deed that he should be given the time to accomplish this task within a set period of time; i.e. thirty (30) or sixty (60) days.

Frank Walsh stated that he thought Mr. McBeth was supposed to resolve this matter before the January Board Meeting. Mr. McBeth is stepping down as president to become president. Mr. McBeth stated that last month the dispute of the presidency had not been formally proven.. Now that formal evidence has been submitted to Management, the matter will be addressed.

David Holtzman reiterated that the election on December 3, 2009 was not a proper election and therefore, Mr. McBeth is not the Board president, and thus, does not have the authority to step down.

Craig Wilson, Vanguard Management, stated that everyone on the Board is an elected director and the Board can conduct business. The president chairs the meetings and signs the official documents, but it doesn't have to be that way. The issue will be resolved if Mr. McBeth is given the time to place his name on the deed. Mr. Wilson suggested that legal counsel could resolve the issue. Mr. Wilson stated that Mr. Mahabir can be elected President, and the following month another election can be held for president.

Frank Walsh stated that technically Mr. McBeth should not have become president. Mr. Wilson agreed but also stated that this issue will become moot, and the matter is irrelevant as to election onto the Board of Directors.

**The motion was withdrawn by Steven Muse and Daryl McFadden.**

**MOTION:** (Steven Muse/Daryl McFadden) Accept advice from Management to hold another election for president tonight and hold another election next month.

**Vote:** Motion Passed 5 ayes, 1 nay (Holtzman), 1 abstention (Walsh)

**MOTION:** (Vernard McBeth/Steven Muse) Cast one unanimous ballot for Board positions: President - Nicolm Mahabir, Vice President -Vernard McBeth, Treasurer-Daryl McFadden, Secretary-Frank Walsh.

David Holtzman stated that the motion was out of order.

**The motion was withdrawn by Vernard McBeth and Steven Muse.**

**MOTION:** (Vernard McBeth/Steven Muse) Hold elections for the office of Board president and vice president.

**Vote:** Motion Passed - 4 ayes, 2 nays (Holtzman, Dart), 1 abstention (Walsh)

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Nicolm Mahabir resigned as Board vice president.

Vernard McBeth nominated Nicolm Mahabir as president of the Fountain Hills Community Association Board of Directors..

The floor was opened for other nominations.

Steven Muse nominated Brandon Dart as President. Brandon Dart declined.

**Vote:** 4 ayes - Nicolm Mahabir elected as Board president.

Vernard McBeth nominated Vernard McBeth for Vice President.

Steven Muse nominated Brandon Dart for Vice President. Brandon Dart declined.

**Vote:** 4 ayes - Vernard McBeth elected as vice president.

#### **D. AGENDA**

Vernard McBeth stated that the agenda has already been changed for this Board Meeting. Mr. McBeth inquired as to whether any Board members had any concerns over the new format of the agenda.

Frank Walsh stated that he liked the agenda the way it was set up previously, and there were no problems with it and there were no homeowner complaints.

David Holtzman stated that he thought homeowners would be unhappy that they had to sit through the Management Report of the meeting, since most homeowners do not participate in the Management Report and their concerns have always been in Homeowners Forum at the beginning of the meeting.

At least two (2) Board members questioned the reason behind the agenda change; was it to shorten the meeting time?

Vernard McBeth state that homeowners might be interested in how the Association spends its money if they arrive earlier for the Management Report. Mr. McBeth did not see a big difference between homeowners coming for 7:30 p.m. versus 8:00 p.m.

**MOTION:** (Vernard McBeth/Daryl McFadden) Adopt the new format for the agenda.

**Vote:** Motion Passed - 4 ayes, 3 nays (Walsh, Holtzman, Dart)

#### **E. HOMEOWNERS FORUM**

Siu Poon, 19020 Noble Oak Drive, mentioned that she liked the previous agenda when the Homeowners Forum was near the beginning.

Nicolm Mahabir chaired the rest of the meeting.

#### **F. MINUTES**

**MOTION:** (Nicolm Mahabir/Daryl McFadden) Postpone the approval of the December 3, 2009 Board Minutes until the February Board Meeting..

**Vote:** Motion Passed - 5 ayes, 2 abstentions (Dart, Walsh)

## G. MANAGEMENT REPORT

### 1. Lawn Maintenance and Snow Removal

Management reminded the Board that the budget for lawn maintenance will change during the middle of the year as the budget is approved in May 2010.

Vernard McBeth questioned the low cost proposal of McFall & Berry Landscaping. Craig Wilson replied that their proposal was consistent with another HOA of similar size and they had explained at the meeting with this HOA that since their company is targeted for HOAs their costs can be kept lower.

**MOTION:** (Nicolm Mahabir/Vernard McBeth) Accept proposal from McFall & Berry Landscaping for \$110,553.00.

David Holtzman and Frank Walsh requested more time to look at the proposals from all five (5) landscaping companies as this is the biggest contract the HOA approves. Note: The proposals were received by the Board during this meeting.

Management stated that they did not see a problem waiting until February to decide on a landscape company.

Management inquired if the Board was interested in having interviews with any of the landscape companies. The Board agreed that interviews were not necessary.

David Holtzman inquired if any of the snow removal companies offered a fee for service contract. Management stated all snow removal companies they know do a set fee for service. Also, the snow removal contractor will only remove snow if they are the landscape contractor.

**Vote:** Motion Failed - 3 ayes/4 nays (Walsh, Holtzman, Dart, Mahabir)

### 2. Sanding of Alleyway

Management received an email from 13109 Ponsford Place concerning the over sanding of the private streets that service the alleyways behind the home. The homeowner indicated that this process is unnecessary and the practice should be discontinued. Management sent a survey to the eleven (11) owners whom are serviced by this alleyway and asked that they provide feed back concerning the sanding. Management received three (3) replies; one for sand, one against sanding and one with no opinion. The letter to homeowners did state that a non-response would be counted as being satisfied with the current practices. In light of the responses gathered, the current sanding process will continue.

### 3. Request for waiver from 18702 Harmony Wood Lane

The homeowner requested a waiver of the \$35.00 return check fee on his account.

Frank Walsh stated that this is a hard cost for the Association.

**MOTION:** (Nicolm Mahabir/Brandon Dart) Deny the request for waiver of the \$35.00 return check fee for 18702 Harmony Wood Lane.

**Vote:** Motion Passed - 7 ayes

4. Pool Management Bids

Management has scheduled a room at the Germantown Community Center on January 16, 2010 at 10:00 a.m. to interview prospective pool companies. Management inquired which Board members could commit to being there for these interviews. Nick Mahabir, Brandon Dart, and David Holtzman responded that they could attend. Steven Muse may be able to attend for part of the time.

Management will provide Board members with questions that could be asked of the pool company representatives.

5. Winkler Pools

Winkler Pools will be meeting with Management on Monday, January 11, 2010 at 11:00 a.m. Management inquired if any Board members could be present. David Holtzman asked if Board members could be connected through conference call. Management stated that this would be possible. Nicolm Mahabir may be able to attend the meeting.

6. 13533 Hamlet Square

Vernard McBeth inquired of Management on the status of the burst water pipes at 13533 Hamlet Square. Management replied that the water has been turned off and the water meter removed. There already has been water damage to the unit next door and when the ice block thaws, there is a possibility of more damage. The insurance company has been notified.

**H. NEW BUSINESS**

1. Thank you notes for Last Year's Board members

Nicolm Mahabir requested that Management send thank you notes to last year's Board members and community volunteers thanking them for their service.

2. Towing

Nicolm Mahabir mentioned that G&G Towing may be providing courtesy passes for certain vehicles parked in Fountain Hills. Work vehicles are not allowed to be parked on Fountain Hills property. Management will contact G&G Towing to explain that courtesy passes will not be honored in the Fountain Hills Community.

3. Montgomery County Planning Board

Nicolm Mahabir mentioned that the Montgomery County Planning Board is working on the Master Plan for Germantown and they would like to have input from HOAs and communities in Germantown. Mr. Mahabir asked if any Board members would be interested in being a representative from Fountain Hills to attend meetings.

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Mr. Mahabir mentioned that he is willing to put some time into attending these meetings to represent Fountain Hills Community Association.

There is currently no chairman of the ARC Committee for Fountain Hills. It was also mentioned that other homeowners have stated an interest in being involved with the ARC Committee. Management stated that these homeowners would need to be formally appointed to the ARC Committee.

4. Homeowner emails

Nicolm Mahabir mentioned that he would like to formulate a process to collect email addresses for all residents in the community so notices or important information could be sent directly to homeowners. The Board will discuss and consider this issue at a future date.

5. Drainage for Pool

David Holtzman mentioned that at the end of the summer the report from the expert who reviewed the pool area mentioned that alternative drainage should be put in place before the opening of the pool.

Management stated that questions concerning this issue should be asked of the prospective pool companies at the interviews. Management will provide a list of questions for Board members.

Management also stated that the drainage issue is a separate project and would require another contractor, who is not the pool contractor, to do the work.

6. Guest Speakers

Steven Muse suggested that a guest speaker be invited to each Board meeting on issues that involve the community. He suggested a representative from the HOC, Montgomery County Police, and public works.

David Holtzman questioned where in the agenda these guest speakers would speak. In addition, guest speakers would add time to the regular meeting. Mr. Muse stated that the guest speaker could speak during New Business around 8:30 p.m.

Siu Poon suggested that guest speakers be invited to Board Meetings infrequently. Alternately, they could come to a special meeting. This matter will be discussed at a later time.

**I. OLD BUSINESS**

1. Appreciation Dinner

The Board is still waiting for Management to provide the final cost of the appreciation dinner.

**J. ADJOURNMENT**

**MOTION:** (David Holtzman/Steven Muse) Adjourn the Board Meeting at 9:00 p.m.

**Vote:** Motion Passed - Unanimous

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