

**Fountain Hills Community Association  
Board of Directors Meeting  
September 3, 2009**

The Board of Directors of Fountain Hills Community Association held a Board of Directors Meeting at the Up-County Regional Services Center on September 3, 2009 at 7:30 p.m.

**Board Members Present:**

Siu Poon, President  
Sue Adamkiewicz, Vice President  
David Holtzman, Treasurer  
Frank Walsh, Secretary  
Shirley Fair, Director  
Vernard McBeth, Director (left at 8:10 p.m.)  
Daryl McFadden, Director (left at 8:30 p.m.)

**Also Present:**

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

**Homeowners Present:**

Vivek Gupta & Madhvi Jain, 18707 Sparkling Water Drive, Unit 304

**A. CALL TO ORDER**

The Board of Directors meeting was called to order by Siu Poon at 7:39 p.m.

**B. HOMEOWNERS FORUM**

1. Vivek Gupta & Madhvi Jain, 18707 Sparkling Water Drive, Unit 304, asked the Board if there was any security for the parking lots in Fountain Hills as their car was broken into last week. They have also heard of other homeowners whose cars have been broken into. They asked the Board if they could distribute fliers to homeowners to make them aware of the car break ins. The Board replied that this is a Condominium issue and can be brought to the attention of the Condominium Board at their meeting next Thursday.

2. Shirley Fair stated that the debris from the eviction was picked up the next day.

3. Daryl McFadden mentioned that one of the street lights is out. Siu Poon reported that she had already notified Management.

Mr. McFadden also mentioned that the cracked fence post has not been repaired. Management will check on this matter.

**C. MINUTES**

1. Minutes of August 3, 2009

**MOTION:** (Siu Poon/Shirley Fair) Approve the August 6, 2009 Board Meeting Minutes as amended.

**Vote:** Motion Passed - 6 ayes, 1 nay (Vernard)

## **D. REPORTS OF OFFICERS AND DIRECTORS**

1. David Holtzman, Treasurer, asked Management to clarify for the record what checks had been issued to Board members. Management reported that a check was issued to Mr. Holtzman for more than \$500.00 as reimbursement for the community picnic. Mr. Holtzman provided receipts for the reimbursement amount. A check was also issued to the Board President, Siu Poon, for reimbursement for the community picnic; Ms. Poon also provided receipts to support this claim.

2. Mr. Holtzman requested more information from Management concerning CDs that are being called prior to the due date. Mr. Holtzman stated that CDs issued by banks were not being called prior to their due dates. Management stated that individual customers are typically not aware that CDs are callable before their due dates.

Mr. Holtzman noted that callable CDs could disrupt the ladder of investments in the reserve funds and provide less than the expected income.

Craig Wilson explained that CDs purchased for Fountain Hills Community Association are based on two (2) options: primary and secondary. Primary investments are based on X-terms and the rates are fixed. Secondary investment are liquid cash and investors will shop the market and call or buy CDs regularly.

Mr. Holtzman stated that there is a level of market risk of investment strategy to guarantee income and investment of reserve. He questioned whether the Association could get an analysis of the risk of CDs that are invested with Smith Barney as to those that are at a risk of being recalled. Craig Wilson replied that Vanguard Management bases the average rate of return on the low side so this helps mitigate risk. The rates are always in fluctuation.

Mr. Holtzman stated that laddered CDs help insure against fluctuations of interest, but this strategy hasn't been successful. Vernard McBeth stated that the CDs are laddered so the Association has cash on hand. Mr. McBeth also stated that all CDs are callable.

Craig Wilson stated that this type of investment is not really a market risk, and it is a small amount of money in a large investment.

3. Vernard McBeth questioned whether the Board has fidelity bonds. Craig Wilson stated that Officer and Directors of the Board have liability coverage which covers the Board and individuals except for negligence, criminal acts and willful misconduct.

## **E. REPORTS OF DIRECTORS**

### **1. Fountain Hills Condominium**

David Holtzman reported that the sprinkler project is now completed.

Mr. Holtzman also reported that the Condominium has been enforcing parking at the Condominium as other homeowners in the community often assume they can park in the Condominium parking lots while they are at the pool. Mr. Holtzman mentioned one homeowner from Lake Geneva Way insisted he had a permit to park in any Fountain

Hills parking lot. Mr. Holtzman stated that this permit does not apply to Fountain Hills Condominium. Mr. Holtzman talked with the Montgomery County Police and with G&G Towing concerning this matter.

2. Enforcement Committee

Vernard McBeth mentioned that the Fountain Hills Community Association had not received the opinion letter from the Condominium's legal counsel concerning the relationship between the HOA and the Condominium. Mr. McBeth mentioned that at the last Board Meeting the Condominium Board mentioned the possibility of suing the HOA unless the relationship between the two communities is decided. Mr. McBeth also felt that Mr. Holtzman being on both the Fountain Hills HOA Board and the Fountain Hills Condominium Board might constitute a conflict of interest.

3. Social Committee

Management will supply the Board with the total cost of the Community Picnic at the next Board Meeting.

4. ARC

The chair of the ARC has stepped down. Management stated that the remaining members of the ARC would be willing to stay on the committee but none are willing to chair the committee.

The Board has two (2) ARC applications to review which will be discussed under the Management Report.

**F. MANAGEMENT REPORT**

1. Tot Lot on Lake Geneva Way

The new playground equipment for the tot lot on Lake Geneva Way will be installed on September 24, 2009.

2. Fence

It was reported to Management that additional damage has occurred to the newly installed fence. A picket was removed from the fence in a location separate from the first damage. This opening provides enough room for a person to get through.

The Board discussed other options for preventing people from damaging the fence, and subsequently, using this area as a short cut. Also discussed was installing a concrete barrier, which would require appropriate permits and approvals. Security patrols, fake cameras, and posting of signs are not effective and providing a false sense of security. Large pyrocantha bushes with spines could be planted in front of the fence which help deter people.

Craig Wilson stated if someone is seen going through the fence the persons would need to be dealt with directly, but dealing with people directly can be a personal risk.

Management will get a quote for fixing the fence and planting larger pyrocantha bushes.

### 3. Pool Management/Operations

#### *a. Performance of Winkler Pools*

Management continues to document the performance of Winkler Pool Management.

Management inquired of Winkler Pool as to the status of the following issues:

Verbal Altercation resulting in the police being called and a resident escorted out.

Change in staff without notifying Management.

Child injured on diving board. No incident report filed.

Water test from alleged e-coli contamination.

Management received a letter in response to these issues, but Winkler has not followed up with the actual documentation for these issues.

Mr. Holtzman reported that he told the Winkler staff to make a report concerning the verbal altercation the next business day, but Management never received a report.

Winkler Pools also reported to Management that they had performed the water test from the alleged e-coli contamination, but Management has since discover that the test was never done.

Management has a meeting with the area supervisor of Winkler Pools tomorrow, September 4<sup>th</sup>, as Management has withheld payments to Winkler Pool until they received some answers.

#### *b. Termination of Pool Management Contract*

Management included a copy of the draft letter to advise Winkler Pools that the Association will not be retaining them for the 2010 season. The Board requested that Management take out the line in the letter thanking Winkler for their many years of service.

Craig Wilson mentioned that Winkler Pools will not receive payments until they complete their contract with Fountain Hills on October 31<sup>st</sup>. If Winkler Pools walks away from the contract, there is still time to negotiate with another pool company to winterize the pool for this year. David Holtzman reminded Management to deduct the money paid to Winkler for the non-working fountains. The final termination letter will not be sent to Winkler Pools for another month.

#### *c. Pool Contract for 2010 Season*

Management has prepared an RFP for the 2010 pool season. Management suggested that the RFP be separated into two (2) distinct contracts: one for the pool and one (1) for the fountains so that, if necessary, the contracts can be administered separately.

### 4. Engineering Report from CPJ

Management distributed the engineering report from CPJ concerning the issue of water flowing from the pool area onto the Condominium property. Management suggested that the Board review the report and plan to discuss it at the October Board

Meeting.

David Holtzman reminded the Board that the Condominium would like to have the pavement of the Condominium parking lot repaired by winter.

Management reminded the Board that they suggested soliciting additional bids for repairing the parking lots. Frank Walsh stated that the Condominium Board had requested that more bids be obtained, so there is no reason to have the HOA duplicate these bids.

Craig Wilson proposed that Management will have a consultant do a visual inspection of the equipment for the pool.

5. Collection Process

David Holtzman mentioned that the meeting with Management and Mr. Thomas Schild, the Association's legal counsel, was very production and informative.

Mr. Holtzman had several thoughts that he gathered from the meeting. Management was comfortable with its process to refer matter to attorney for collection and the process is working. Mr. Schild agreed to provide a summary type spread sheet listing those items that are with his office for collections, instead of a status report for \$40.00 for each delinquency.

Craig Wilson suggested that the Board discuss and consider revamping their collection policy or set up an ad hoc sub committee to work with Management to revise the policy and options for doing that.

**MOTION:** (David Holtzman/Siu Poon) Modify the collection policy of the HOA to state Management "may" refer items of delinquent accounts or other items owed to the Association to the attorney after ninety (90) days instead of "shall".

**Vote:** Motion Passed - 4 ayes/1 nay (Frank)

6. 18710 Harmony Wood Lane

The delinquency amount of 18710 Harmony Wood Lane, as of August 31, 2009, is \$2,478.50. Legal counsel concluded that they believe there is not enough equity in the property to proceed with foreclosure. The cost to file a money judgement would be \$750.00

**MOTION:** (David Holtzman/Frank Walsh) Authorize the attorney to file a suit for a money judgement against 18710 Harmony Wood Lane for amount owed to Association.

**Vote:** Motion Passed - 5 ayes

7. 18700 Lake Mary Cele Lane

The delinquency amount as of August 31, 2009 is \$2,979.20. Legal counsel concludes that there is enough equity in the property to proceed with foreclosure. The cost of this action would be approximately \$5,000.00 to \$7,000.00.

**MOTION:** (David Holtzman/Siu Poon) Authorize attorney to initiate foreclosure of 18700 Lake Mary Cele Lane.

**Vote:** Motion Passed - 5 ayes

8. 18825 Sparkling Water Drive, Unit J

The delinquency amount as of August 31, 2009 is \$2,498.85. Legal counsel concludes that they believe there is enough equity in this property to proceed with foreclosure.

**MOTION:** (David Holtzman/Siu Poon) Authorize attorney to file personal lawsuit of money judgement for 18825 Sparkling Water Drive, Unit J.

**Vote:** Motion Passed - 5 ayes

9. 18805 Sparkling Water Drive, Unit 103

The delinquency amount as of August 31, 2009 is \$2,750.90. Legal counsel concludes that there is not enough equity in this property to proceed with foreclosure.

**MOTION:** (Siu Poon/David Holtzman) Proceed with money judgement of 18805 Sparkling Water Drive, Unit 103.

**Vote:** Motion Passed - 5 ayes

10. 18821 Sparkling Water Drive, Unit 201

The delinquency amount as of August 31, 2009 is \$2,954.04. Legal counsel concludes there is not enough equity in this property to proceed with foreclosure.

**MOTION:** (David Holtzman/Shirley Fair) Authorize attorney to initiate personal lawsuit for money judgement for amount owed to the Association for 18821 Sparkling Water Drive, Unit 201.

**Vote:** Motion Passed - 5 ayes

11. 13110 Lake Geneva Way

The delinquency amount as of August 31, 2009 is \$4,603.00. Legal counsel concludes that there is not enough equity in this property to proceed with foreclosure.

**MOTION:** (David Holtzman/Shirley Fair) Authorize attorney to pursue money judgement against owner of 13110 Lake Geneva Way.

**Vote:** Motion Passed - 5 ayes

**G. ACC**

1. 13416 Fountain Club Drive

The homeowner of 13416 Fountain Club Drive submitted an architectural application for the installation of a retractable awning.

**MOTION:** (David Holtzman/Shirley Fair) Approve the ACC application for a retractable awning as represented on application for 13416 Fountain Club Drive.

**Amend:** (Siu Poon/David Holtzman) The awning must match the color scheme of the house.

**Vote:** Motion Passed - 5 ayes

2. 18619 Village Fountain Drive

The homeowner of 18619 Village Fountain Drive submitted an architectural application for a deck off the kitchen.

The Board requested that the homeowner provide a more detailed description of the deck.

**MOTION:** (Frank Walsh/Siu Poon) Deny request for deck at 18619 Village Fountain Drive and request the homeowner provide more information.

**Vote:** Motion Passed - 5 ayes

## **H. INVESTMENT ACCOUNT**

### **1. Certificate of Deposits**

There are two (2) CDs due in the month of October; one on October 5<sup>th</sup> and one on October 15<sup>th</sup>.

David Holtzman understands the suggestion from Management for reinvesting the funds for a period of five (5) years, he feels that due to the uncertainty of how the interest rate will change, that the CDs should be reinvested for a shorter term.

**MOTION:** (David Holtzman/Siu Poon) Invest the two (2) CDs due in October for a term of one (1) year - one for \$70,000.00 and the second for \$10,000.00.

**Vote:** Motion Passed - 5 ayes

## **I. ARCHITECTURAL CONTROL AND VIOLATION MATTERS**

The Condominium Board has sought the advice of the Condominium's legal counsel who has substantiated the justification that the Association does not have the authority to enforce its rules and regulation against the common areas of the Condominium. The Board feels each unit owner can defend themselves against action by the Association should they choose, concerning a plain site violation. The Condominium has several locked buildings where no individual except as guest or invitee by the unit owner can enter. The unit owner can allow an HOA Board member or Enforcement Committee member into their unit of their own volition.

**MOTION:** (Shirley Fair/Sue Adamkiewicz) It is not the desire of the Fountain Hills Community Association to enforce its rules and regulation on the Fountain Hills Condominium except that which may be determined on a case by case basis by the Board of Directors of the Fountain Hills Community Association.

**Vote:** Motion Passed - 3 ayes/2 abstentions (David and Frank)

## **J. ADJOURNMENT**

**MOTION:** Siu Poon/Sue Adamkiewicz) Adjourn the Board Meeting at 9:30 p.m.

**Vote:** Motion Passed - 5 ayes