

Fountain Hills Community Association

Board of Directors Meeting

April 15, 2010

The Board of Directors of Fountain Hills Community Association held a Board of Directors Meeting at the Upcounty Regional Services Center on Thursday, April 15, 2010 at 7:30 p.m.

Board Members Present:

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

Also Present:

Stephon Collins, Community Manger
Ruth Ann Allen, Recording Secretary

Homeowner Present:

Shirley Fair, 13517 Niagara Falls Court

A. CALL TO ORDER

The April Board of Directors Meeting was called to order by Nicolm Mahabir at 7:34 p.m.

B. STATEMENT FROM BOARD PRESIDENT

Nicolm Mahabir stated that he was sorry about the behavior of Board Members. It is his intention to instill a culture of rules of order, parliamentary procedure, and following of the By-Laws.

Mr. Mahabir went on to state that in recent meetings, the Chair has suffered verbal attacks. He expects discipline from other Board members and no ridicule or disrespect to undermine the credibility of the Chair.

Mr. Mahabir stated that the Board will follow Robert's Rules of Order and he handed out copies to Board members. The Board will conduct themselves in a manner that is professional and act with decorum with no personal attacks. All comments or questions will be addressed to the Chair. Mr. Mahabir brought a gavel to the meeting and when it is used, all conversation will cease and the Chair has the floor.

C. COMMENTS FROM VICE PRESIDENT

Vernard McBeth, as a point of privilege as the vice president, wanted to understand what Robert's Rules of Order stated about the position of the Board in relationship to postponing of meeting. David Holtzman stated that the Chair has the authority to postpone a meeting, or alternately, the majority of Board members can vote

to postpone a meeting.

Mr. McBeth also mentioned that the order of the agenda that the Board had voted to change, had been changed back to the original format. The correct order is first the Reading/Approval of the Minutes, then the Management Report, and then the Homeowners Forum.

Mr. McBeth also questioned the protocol for voting over email as this prohibits discussion between Board members.

Mr. McBeth also inquired as to the disposition of the President's position as to what is on the agenda. Management stated that it takes two (2) Board members to have an item put on the agenda.

D. MINUTES

1. March 4, 2010 Board of Directors Meeting Minutes

MOTION: (David Holtzman/Vernard McBeth) Approve the minutes with amendments by Frank Walsh and David Holtzman.

Vote: Motion Passed - Unanimous

E. MANAGEMENT REPORT

1. Street Sweeping Contract

Management received a street sweeping proposal from McFall & Berry for \$4,890.00. David Holtzman inquired if a portion of that cost would come from the operating funds of the townhouses. He stated that in the February 29, 2010 financial statement, the townhouses had an operating deficit. Mr. Holtzman suggested that funds be transferred from the Reserve Account or a special assessment be initiated.. Mr. Holtzman noted that the reserve account funds would be paid back in the next fiscal year. Vernard McBeth stated that the budget for the townhouses should be balanced by the end of the current fiscal year.

MOTION: (David Holtzman/Brandon Dart) Transfer from the reserves of the townhouses, using a separate Money Market Account that is available, to the operating account of the townhouses, approximately \$50,000.00, to provide operating funds to cover ongoing expenses for maintaining the landscaping and repairs of the townhouses.

Mr. Holtzman stated that the unanticipated cost for snow removal added to the deficit of the operating fund, and the deficit will just become greater.

Vote: Motion Passed - 4 ayes/23abstentions (McFadden, McBeth, Muse)

2. Addendum to the Pool Repair Contract

Management stated that the Board voted and approved the additional work for pool repairs via email and the motion needs to be ratified for the minutes. Vernard McBeth questioned why this vote was conducted via email. Management explained that the approval of the repair work could not wait for the next Board Meeting as the work needed to be done while the pool was empty and while the contractor was on site.

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The Board ratified the motion approved via email to accept the proposal from Millennium Pools for additional work at the pool for a cost of \$7,486.33.

Vote: Motion Passed - 5 ayes/2 abstentions (McBeth, Walsh)

3. Winkler Final Payment

Management stated that the inspection of the pool, to verify the winterization performed by Winkler Pools Management, has been completed. The inspection verified that Winkler Pool Management correctly performed the winterization of the pool at the end of the last pool season. Management has also determined that the items listed on invoices that Winkler Pools claimed had been verbally approved, were in fact purchased, and the Association did receive benefits for those repairs. The remaining balance owed to Winkler Pool is \$5,990.00.

Vernard McBeth stated that even though the work was completed there should be some penalty for not having written approval from Management. Brandon Dart inquired if work performed was necessary for continued operation of the pool. Management agreed that the work was needed for the pool to continue in operation.

David Holtzman stated that the Association would not want this matter to be taken to court as a lawyer would charge \$350.00 an hour. Frank Walsh noted that if the Association lost, they would probably have to pay the legal costs incurred by Winkler Pool.

MOTION: (Vernard McBeth/Steve Muse) Offer Winkler Pool Management \$4,200.00 as opposed to the \$5,990.00, and accept their counter offer up to \$5,990.00

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

4. Request for Payment Plan for 18805 Sparkling Water Drive, Unit 301

The homeowner requested that the Board approve a payment plan in May 2009, which the Board denied. The homeowner never provided another formal request for a payment plan, but did start making additional payments between \$10.00 and \$15.00 per month. The homeowner is requesting a formal approval of this plan.

Brandon Dart mentioned that the payment the homeowner is proposing makes it impossible for the homeowner to pay off this debt in a reasonable time. Mr. Dart stated that the Condominium Board had suggested that the homeowner come up with a payment plan to clear the debt in a year, and the late fees would be removed from the account once the account is up to date.

Vernard McBeth suggested that the homeowner be given a year to continue with the current payment plan and then ask the homeowner to increase the additional payment next year to retire the payment in so many years. Frank Walsh inquired what the Association would do if the homeowner defaulted on the payment plan. Mr. McBeth stated that the Board would take action again on the account.

MOTION: (Vernard McBeth/Daryl McFadden) Accept the payment plan for the next

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defaults on payment, the Board will take necessary action to collect all fees owed to the Association. All collection fees and late fees will stop now. The payment plan will be revisited in twelve (12) months. The Notice of Intent fees which are hard costs paid by the Association will not be waived.

Vote: Motion Passed - 6 ayes/1 nay (Walsh)

5. Request for Waiver for 19012 Noble Oak Drive

The homeowner is requesting a waiver of the \$45.00 Notice of Intent fee and the \$5.00 late fee.

MOTION: (Vernard McBeth/Daryl McFadden) Waive the \$5.00 late fee.

Amend: (Vernard McBeth/Daryl McFadden) Deny the waiver of the \$45.00 NOI fee.

Vote: Motion Passed - Unanimous

6. Request for Settlement for 13300 Rising Sun Lane

Management received correspondence from Mid-Maryland Title East, LLC requesting that the Association reduce the amount of debt owed on the foreclosed property at 13300 Rising Sun Lane, from \$897.70 to \$684.46. The property was foreclosed on in December, 2009. The Title Company has \$684.46 in escrow to pay. If the Association accepts the settlement offer then the remaining balance of \$213.24 would have to be written off as bad debt.

MOTION: (Vernard McBeth/Daryl McFadden) Accept the reduction of debt owed on 13300 Rising Sun Lane from \$897.70 to \$684.46 from Mid-Maryland Title East, LLC.

David Holtzman stated that it was the legal responsibility of the Title Company to settle the debt before the new owner took possession. The Association should not cover the bad mistake of the Title Company. This problem is the creation of the Title Company and they need to provide a solution.

Management stated that the Title Company did not do a title search. The lien cannot be released until the debt is paid. The previous homeowner should pay the remaining amount due to release the lien. Frank Walsh stated that if the Association agrees to accept the offer of the Title Company, then the Association has released their lien and cannot collect the additional money owed.

Vernard McBeth withdrew his motion.

MOTION: (Daryl McFadden/Steven Muse) Ask for the entire amount of \$897.70 from Mid-Maryland Title East, LLC. When all the money is paid, then the lien will be released.

Vote: Motion Passed - Unanimous

7. ARC Application for 13384 Rushing Water Way

The homeowner is requesting the addition of a pergola on the corner of the existing deck.

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MOTION: (Daryl McFadden/Steven Muse) Approve the ARC Application for 13384 Rushing Water Way for the addition of a pergola to the existing deck.

Vote: Motion Passed - 6 ayes/1 abstention (McBeth)

8. Draft Budget for 2011

Management presented the draft budget for 2011 to the Board. Due to the savings in the lawn maintenance line item, this year's proposed budget reflects a surplus of \$16,379.76. This allows the Board to present a zero percent (0%) increase of assessments to the homeowners. The Board would have the option of placing additional funds in either the landscape improvements or the reserves. Management would prefer that the Board allocate the excess funds.

The monthly general assessment would remain at \$47.50, and the Condominium's assessments would remain at \$40.68.

David Holtzman mentioned that these funds could be placed in an operating contingency fund for the townhouses. Mr. Holtzman also inquired as to why the operating contingency for the townhouses was so small as it should be around ten percent (10%). Management stated that the delinquency rate has not changed much from last year. Mr. Holtzman stated that in his experience the delinquency rate is higher than the budget projects. Mr. McBeth asked Management for the townhouse delinquency rate. Management would have to check on that information.

David Holtzman stated that in the past there has been a sufficient cushion for delinquencies, but looking at the small operating contingency that is in place, there is not a lot of room for error. Vernard McBeth mentioned that the delinquency rate hasn't changed since last year.

Nicolm Mahabir suggested that the Board look at the draft budget next month.

Management stated that the Board needs to decide what to do with the excess money. The Board could put the money in a contingency fund or half in landscape improvements and the other half in a onetime contribution to the reserves.

Vernard McBeth suggested that \$6,379.76 be placed in landscaping for the townhouses and \$10,000.00 into the reserves. Mr. Holtzman stated that the Association is not obligated to spend this money at the moment and if the money is put in a contingency fund it can be transferred later to the reserve account.

Vernard McBeth stated that although there are significant landscaping issues for the townhouses, putting these funds for landscaping does not obligate this money to be used on landscaping.

MOTION: (David Holtzman/Frank Walsh) Adopt the draft budget as proposed by Management and have it published to homeowners.

Vote: Motion Failed - 3 ayes/4 nays (McBeth, Mahabir, McFadden and Muse)

Management suggested that the excess money could be temporarily moved to reserves and decide what to do with the money when the Board adopts the budget, or the

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homeowners.

MOTION: (Steve Muse/Vernard McBeth) Move the excess funds of \$16,379.76 to operating contingency.

Vote: Motion Passed - 6 ayes/1 abstention (McBeth)

MOTION: (Steven Muse/Vernard McBeth) Accept the draft budget and send to homeowners with the changes as noted.

Vote: Motion Passed - Unanimous

9. Draft Audit 2008/2009

Management received a copy of the draft audit for 2008/2009 as prepared by the Association's audit firm DeLeon & Stang.

MOTION: (Nicolm Mahabir/Daryl McFadden) Accept the draft audit for 2008/2009 as presented.

Vote: Motion Passed - 6 ayes/1 abstention (McBeth)

10. Revised Wood Carpet Price for Lake Geneva Tot Lot

Management presented the Board with a revised proposal for wood carpet for the tot lot on Lake Geneva Way. The Board previously voted not to do the timber caps and the price for shipping was reduced. The shipping cost should not have changed, since the timber caps did not require shipping. The contract total for wood carpet is \$2,901.00, including shipping.

MOTION: (Steven Muse/Vernard McBeth) Accept the proposal from Playground Specialists, Inc. for wood carpet at a cost of \$2,901.00.

Vote: Motion Passed - 6 ayes/1 nay (Holtzman)

11. Enforcement Issues

A. Rats in the Community

Steven Muse mentioned that he had checked out the whole community and he stated that about ninety percent (90%) of residents do not put their trash in an appropriate can. According to the rules of Fountain Hills, trash is to be placed in cans. He also stated that he suspected that a major source of the rats in the community comes from a dumpster at 7 Eleven. Shirley Fair, 13527 Niagara Falls Court, mentioned that the health department inspected the dumpster, and they called the problem horrendous. Ms. Fair is concerned for the residents in Fountain Hills and the day care located in the shopping center behind the 7 Eleven. Ms. Fair suggested that a petition be circulated in the community stating that the residents of Fountain Hills do not want the dumpster so close to their property. The Board was not sure that moving the dumpster would lessen the problem.

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between Fountain Hills and the shopping center proactively. Management will look into using the same company the condominium uses.

MOTION: (Steven Muse/Brandon Dart) Place bait stations out along the fence line to be proactive on the rat problem.

Vote: Motion Passed - Unanimous

b. Enforcement Issues

Steven Muse stated that members of the Board who are not members of the Enforcement Committee should not single-handedly attempt to enforce rules with other homeowners in the community. Such actions sabotages the efforts of the Enforcement Committee. Mr. Muse recommended that all enforcement issues identified by Board members be addressed to the Enforcement Committee. The Enforcement Committee is also seeking other homeowners who would like to be on the committee.

c. Complaints

Vernard McBeth mentioned that he had received emails from residents on Hamlet Square and Niagara Falls. He mentioned that the builder didn't put things in the right way or use the materials stated, thus, the houses are in disrepair. Neither Management nor the Board are doing their job; the violations must be followed up with fines if needed repairs are not performed.

Vernard McBeth also mentioned that he had received complaints from residents on Hamlet Square that Mr. Holtzman was enforcing the parking rules. Mr. McBeth stated that this does not help the situation. Mr. Holtzman stated he didn't appreciate the tenor of the meeting and appreciated Mr. Muse's comments. Mr. McBeth stated that this was not tenor, and was fact, and that he left copies of the email at home.

Mr. Holtzman replied that couple of weeks ago he noticed a vehicle parked in the driveway of the house that was condemned. He was concerned that the woman who lived there had come back into the community. He spoke with a person in the car, which was parked in the driveway, and the person replied that they lived down the street.

Other Board members mentioned that they had not received the emails with the complaints. Mr. McBeth stated that he had sent the emails to the Board President and then to Management. Management stated that the complaints will be sent to the rest of the Board and placed on the agenda for next month.

12. ARC Change for 19019 Noble Oak Drive

The homeowner of 19019 Noble Oak Drive submitted an ARC Application for installation of a fence to the rear of the property. The homeowner indicated the fence

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MOTION: (Steven Muse/Daryl McFadden) Deny the ARC application due to the exact type of fence material not stated.

Vote: Motion Passed - Unanimous

13. Social Committee

The Board previously approved Siu Poon as Chair of the Social Committee. Ms. Poon has requested that she and Sue Adamkiewicz serve as co-chairs. The Board agreed to have Siu Poon and Sue Adamkiewicz as co-chairs of the Social committee.

F. NEW BUSINESS

1. Next Board Meeting

Nicolm Mahabir inquired of the Board when they want to hold the next Board meeting. Nicolm Mahabir stated that the next Board meeting could be held on May 6th as scheduled. The Fire Chief is scheduled to come to the meeting on May 6th, but if the Board agreed to have the Board meeting on another day, the Fire Chief could be rescheduled. Another possible date for the Board meeting is May 20th. Management suggested that a short meeting could be held at the pool for the Board to discuss the budget. The budget needs to be approved thirty (30) days after it is sent to homeowners.

Steven Muse mentioned that the Board would have to be sure there is a quorum if they met outside of a regularly scheduled Board Meeting. Mr. Muse mentioned that there is not much room at the pool house to have a meeting. The Board would need a place to sit for the discussion. Mr. Muse suggested that the Board have the regular meeting on May 6th and start earlier to discuss the budget. The Board agreed to have the Board meeting on May 6th, but to meet at the regular time of 7:30 p.m.

Mr. Mahabir mentioned that he would like to see homeowners come to hear the Fire Chief who will be talking about issues such as smoke detectors and gas grills.

G. UNFINISHED BUSINESS

1. Board President Position

Vernard McBeth stated that the dispute over the Board Presidency had not been settled. Mr. McBeth stated for the record that the necessary correction on the deed has been made, but it is not his intent to take over as chair of the Board.

David Holtzman inquired if there is a vacancy in the Presidency. Mr. McBeth replied that Mr. Mahabir is president of the Board.

2. Conflict of Interest

Vernard McBeth mentioned that at the end of the March Board Meeting, a conflict of interest was noted that members of the Condominium Board of Directors are also Board members of the Fountain Hills HOA. Mr. McBeth would like to have this

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Mr. Holtzman replied that before this issue is placed on the agenda, that Board members look at the By-Laws which spell out who can be a Board Member. He stated that he sees no conflict with a Condominium Board member being on the HOA Board.

H. NEW BUSINESS

1. LISTSERV

Management stated that the response from homeowners to be added to a LISTSERV has been very positive. Management has already received 178 responses.

2. Trees

There are tree stumps remaining in the community from trees that have been removed. Management stated that these stumps will be removed. Also, Management is planning on walking through the community with McFall & Berry to formulate a plan for replacing trees that have died or been cut down due to the snow storms. The trees need to be replaced as they add curb appeal and are an asset for the community. Vernard McBeth mentioned that the community does not need pine trees. Management stated that other types of trees could be planted.

3. Request for Trees From 18608 Little Star Lane

The homeowner at 18608 Little Star Lane has requested new trees be planted behind the home. This will be included in the proposal from McFall & Berry.

I. ADJOURNMENT

MOTION: (Vernard McBeth/Daryl McFadden) Adjourn the Board meeting at 9:30 p.m.

Vote: Motion Passed - Unanimous