

Fountain Hills Community Association

Board of Directors Meeting

March 4, 2010

The Board of Directors of Fountain Hills Community Association held a Board of Directors Meeting at the Upcounty Regional Services Center on Thursday, March 4, 2010 at 7:30 p.m.

Board Members Present:

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

Also Present:

Stephon Collins, Community Manager
Ruth Ann Allen, Recording Secretary

Board Member Absent:

Steven Muse, Director

Homeowners Present:

Tom McDowell, 28911 Porterfield Way
Ye Mo Choi, 28733 Harmony Woods Lane

A. CALL TO ORDER

The March Board of Directors Meeting was called to order by Niclm Mahabir at 7:30 p.m.

B. MINUTES

The reading/approval of the minutes will be tabled until Frank Walsh, Secretary, is present.

C. HOMEOWNERS FORUM

Tom McDowell, 28911 Porterfield Way, mentioned that he thought the snow removal contractor did a fine job in the single family residences. The roads were passable and the auxiliary roads were done well.

D. MANAGEMENT REPORT

1. Request for Reimbursement for Seal Coating from Fountain Hills Condominium

Niclm Mahabir stated that he had not had time to review the information provided by Management and David Holtzman concerning the seal coating performed on the parking area adjacent to the swimming pool, and he requested that the this matter be tabled until the April Board Meeting.

David Holtzman inquired what action the HOA is taking to resolve the discharge from the pool, so Condominium owners do not have to walk through the discharge from the pool on the upcoming pool season. Management stated that replacing the underground tanks will resolve eighty to ninety percent (80-90%) of the drainage problem. Mr. Holtzman noted that there is still the possibility that water would still run through condominium property. Management agreed that there would still be a possibility that water could flow from the drain.

Mr. Holtzman stated that he is disappointed that there is no solution for the drainage and, as the snow removal will be costly, there could possibly be no funds to fix the problem. Management stated that by putting in the filter tank system, the previous problems should not reoccur. Management will monitor the water drainage over the summer.

Vernard McBeth questioned why the reimbursement for seal coating was on the agenda as it was decided on last month. Management responded that the Board had requested information on the history of the water drainage for new Board members to review.

2. Pool Pass Application Packet

Management provided the Board with a draft copy of the 2010 pool pass mailing for the upcoming pool season.

Vernard McBeth inquired what Management's experience has been with using a data base for pool passes. Management works with one (1) community that uses a data base. For three (3) weekends homeowners can come bring their pool applications and have their pictures taken. The data base will also show if the homeowner has any delinquencies, which means they would not be able to enter the pool area. Mr. McBeth requested that Management look into the cost of a pool application data base system and compare it to the cost of the paper process. Management stated there would also be an additional fee for Management to update the system over the summer.

MOTION: (Nicolm Mahabir/Vernard McBeth) Accept the pool pass application packet.

David Holtzman was concerned over the number of private parties that occur at the pool, especially involving children who were not residents. There is often no appropriate supervision. Mr. Holtzman stated that it is a liability having unsupervised children from a party on Fountain Hills property. Management stated that the Fountain Hills' insurance covers guests at the pool. Vernard McBeth inquired who was going to monitor if the children are under age 10 or not. Frank Walsh stated that Rule 12i stated no private parties. Management stated that Item 12i in the Swimming Pools Rules and Regulations refers to private pool parties that entail closing the pool. Both Frank Walsh and David Holtzman stated that their understanding is that a private pool party is any party at the pool. Mr. Collins' definition of a private party does not agree with previous property managers definition of private parties at the pool.

Mr. Holtzman stated that parties should not be allowed at the pool.

Vote: Motion Passed - 4 ayes/2 nays(Walsh/Holtzman)

David Holtzman stated his objection that a matter that is germane to the pool had

Fountain Hills Community Association
Board of Directors Meeting
March 4, 2010

not been cleared up before the pool rules and regulations were approved by the Board. Niclom Mahabir stated that Mr. Holtzman can bring up the matter of pool parties under "New Business".

3. Request to Park Commercial Vehicle

The resident at 13106 Lake Geneva Way requested an extension to park his commercial vehicle in the parking lot as the homeowner is not able to use the garage due to damage by a fire at his residence. The resident usually works at night, but may not work every night, so this is still a concern. Niclom Mahabir suggested that the parking in the parking lot be extended until the end of the month. Management will notify the homeowner and G&G Towing of the Board's decision.

MOTION: (Daryl McFadden/Brandon Dart) Extend the parking of the commercial vehicle of 13106 Lake Geneva Way in the parking lot until the end of the month.

Vote: Motion Passed - 3 ayes/2 nays/1 abstention (McBeth)

4. Damage to Homeowners' Property Due to Snow Removal

Management received a letter from the homeowner at 18749 Harmony Woods Lane expressing concern over the snow removal on Harmony Wood Lane, especially the damage done to her front yard.

Management stated that damage in the community has been documented with pictures and sent on to Dunlevy. The cost for snow removal in Fountain Hills will come to about \$174,000.00 for fiscal year July 1, 2009 through June 30, 2010. The Fountain Hills Condominium has their own snow removal contract. Dunlevy has not been paid their final invoice (\$69,000.00). Management stated that Dunlevy should come back and attend to the damage.

In response to the fence that was damaged, Dunlevy stated that there was no place to put the snow so they would not be responsible for the damage to the fence. Daryl McFadden stated that if they break the fence they should fix it. Management stated that there is no ill will with Dunlevy and they have every incentive to try to make the damage right. Structures need to be fixed, but Management is not sure about repairing grass and flower beds.

Management also stated that it is possible that the repair of the fence may fall into a program to be funded by the government.

Management will have the contractor evaluate the fence and provide a quote for repair. Management will report back to the Board on updates concerning these issues at the next Board meeting.

5. Annual Retainer Agreement from Thomas Schild Law Group

Management received a copy of the Annual Retainer Agreement for Thomas Schild Law Group. The amount of the agreement is \$2,700.00 which provides the

Fountain Hills Community Association
Board of Directors Meeting
March 4, 2010

matters and attendance at one (1) meeting of the Board of Directors Board. This is the same agreement that the Association has had in the past.

David Holtzman stated that the delinquencies are rising in the community and legal counsel does not seem to be able to get a handle on these delinquent accounts. The fees that are charged to collect debts are paid for by the Association. The liens need to be filed in case of foreclosure, but the Association is not going to spend money to prepare and file a suit. Mr. Holtzman also stated that the attorney charges a per account fee to provide a report on the account. Other law firms do not charge for that service.

Vernard McBeth inquired if it was worth switching to another law firm. Management replied that any law firm would do the job and all are aggressive in different areas, but Management realizes the Association does not want an attorney they have to keep after to get the job done.

MOTION: (Niclom Mahabir/Vernard McBeth) Renew the Annual Retainer Agreement with Thomas Schild Law Group, LLC.

Vote: Motion Passes - 3 ayes/1 opposed (Holtzman)/2 abstentions(Walsh/Dart)

David Holtzman stated that the arrears for the townhouses is near \$60,000.00.

This amount will increase by the end of the fiscal year. Mr. Holtzman stated that the fees to go through the process of going after delinquencies is so high with Schild. Mr. Holtzman would like to examine other options to find a happy medium without bankrupting the Association.

McBeth Vernard questioned whether an attorney with lower fees would get the job done.

President Niclom Mahabir ended the discussion.

MOTION: (David Holtzman/Frank Walsh) Reconsider the vote by which the Board approved the renewal contract with Thomas Schild Law Group, LLC.

Frank Walsh stated that other firms could be looked at, but since the renewal date is April 1, 2010 there may not be enough time.

Vote: Motion Failed - 3 ayes/3 nays (Mahabir, McFadden, Vernard)

Niclom Mahabir suggested that the Association could look into other law firms for next year. Management will send out RFPs to other law firms.

D. COLLECTIONS

MOTION: (David Holtzman/Brandon Dart) Move discussion of collections after homeowners have left.

Vote: Motion Passed - 4 ayes/2 nays (McFadden/McBeth)

E. HOMEOWNER FORUM (cont'd)

Ye Mo Choi, 18733 Harmony Woods Lane, mentioned that a tree had fallen down by her house. The tree is on common area. Management will have the landscape contractor look at the tree after the snow melts. There is also a tree on Fountain Club Drive that is touching the house window. Management will check to determine if the

Fountain Hills Community Association
Board of Directors Meeting
March 4, 2010

Ms. Choi mentioned that she appreciates that the Board is working to improve the community and use money wisely, but the manner in which the Board makes decisions is making her uncomfortable.

Nicolm Mahabir stated that the Board seems contentious, but they are all invested in the community to make it better.

F. COLLECTIONS (cont'd)

1. 18919 Porterfield Way

The previous Board approved to move forward with a garnishment based on a law suit filed last year. The assessments have been paid through April 30, 2008. The next step would be to file another suit to try and obtain the remaining balance. The remaining balance is \$4,404.61.

MOTION: (Daryl McFadden/Brandon Dart) Proceed with collections of \$4,401.61 for 18919 Porterfield Way.

Vote: Motion Passed - Unanimous

David Holtzman mentioned that there is family living on Fountain Club Drive who gave their pool passes to the family to use. Mr. Holtzman inquired if a reminder could be sent out to residents that pool passes are non-transferable. Residents can be reminded that pool passes are non-transferable, but in order for Management to do something about a specific case of transferring pool passes evidence would need to be provided to Management.

2. Collection Agency

Vernard McBeth inquired if the Association could employ a collection agency to go after bad debt. Management will check to see if a collection agency can be employed. David Holtzman stated that the Association would be throwing more good money after bad money. Mr. McBeth stated that the advantage of using a collection agency is that if they don't collect money then they don't earn anything. David Holtzman mentioned that there may be a three (3) year limit to begin action on overdue accounts.

G. MINUTES

1. February 4, 2010 Board Of Directors Meeting Minutes

MOTION: (Daryl McFadden/Brandon Dart) Accept the February 4, 2010 Board of Directors Meeting Minutes with amendments discussed at the Board meeting and the amendments noted in writing by Frank Walsh.

Vote: Motion Passed - 5 ayes/1 abstention(McBeth)

H. UNFINISHED BUSINESS

Fountain Hills Community Association
Board of Directors Meeting
March 4, 2010

1. Paying for Snow Removal

Frank Walsh inquired as to how the Association will pay the snow removal costs. Management replied that the cost will come out of the bottom line. The snow removal bills for fiscal year July 1, 2009 - June 30, 2010 total \$174,435.01. The total budget for snow removal is \$55,000.00 with \$16,300.00 in operating contingency.

The breakdown of percentages in Fountain Hills for snow removal is: The townhouses cover 52%, the common area of the HOA covers 35%, and the single family homes cover 12%. The Condominium covers their own snow removal services. The percentages do not add up.

David Holtzman stated that the townhouses do not have much wiggle room in their available funds to cover the cost of snow removal. They will have to make up a substantial amount of funds. Management stated that contracting with a new landscape company will provide some relief. Management will evaluate the operating account for funds that are available to help cover the snow removal costs. Management will be working on the draft budget for the next fiscal year before the April Board meeting.

2. Pool Rules and Regulations

David Holtzman requested that the Board revisit Item 12i in the Swimming Pools Rules and Regulations. Item 12i states that private pool parties are prohibited. Mr. Holtzman stated that this item needs to be clarified as to what pool parties include. **MOTION:** (David Holtzman/Frank Walsh) Define private pool parties to include all children's birthday parties and adult parties in which food and beverage is served.

Vernard McBeth questioned who is going to enforce these rules. David Holtzman replied that the life guards and the pool management company will enforce these rules like the other rules of the pool.

Vernard McBeth stated that a pool party is subjective and a private party means closing the pool for private use. Frank Walsh stated that a private pool party does not mean closure of the pool, but all parties at the pool.

Vote: Motion Passed - 3 ayes/2 nays (McFadden/McBeth)/1 abstention (Mahabir)

Management mentioned that this rule could be difficult to enforce since food is allowed in the pavilions and other designated areas. Vernard McBeth stated that ten (10) kids could order pizza and have a party. David Holtzman stated that parties are cases in which somebody walks in with soda, food and birthday cake.

I. NEW BUSINESS

1. Resident email Addresses

Nicolm Mahabir asked for the Board's support in the process of collecting email addresses from community residents. Mr. Mahabir would like to have this completed in the next ninety (90) days. Management suggested that a place for email address could be put on the pool pass application. David Holtzman stated that asking for an email address would be a choice for the resident to receive information on what is going in the

Fountain Hills Community Association
Board of Directors Meeting
March 4, 2010

Management will email a draft of the updated pool pass application and the Board can approve the change electronically.

2. Social Committee

Nicolm Mahabir would like to see the Social Committee active again. Mr. Mahabir suggested a large community social event be held this summer, possibly on July 17th from 1:00 p.m. to 6:00 p.m. Siu Poon had mentioned that she would be interested in helping organize this event.

3. Social Action

Nicolm Mahabir suggested having a community event where residents could bring clothes, cash, and/or food for those in need in the Germantown area before the holiday season. He suggested asking the Salvation Army to provide a truck in the community on November 13th for collections.

4. Invitation to Fire Chief for May Board Meeting

Nicolm Mahabir suggested that the Board invite the Germantown Fire Chief to come to the May Board meeting to discuss issues involving barbecuing, fire alarms, smoke detectors, etc. David Holtzman stated that residents in the condominiums are not allowed to barbecue on decks.

5. Promoting the Fountain Hills Community

Nicolm Mahabir mentioned he would like to sit down and talk with a newspaper reporter from the Gazette to help promote the Fountain Hills Community Association. He would like to have a picture of Board members included in this article.

6. Meeting of Board Members outside Board Meeting

It was suggested that the Board meet for breakfast to discuss ideas to improve the Community, along with exploring the different skills and expertise that Board members bring to the community. Mr. Mahabir suggested that Board members email suggestions for date and time in the next thirty (30) days. David Holtzman stated that he was not comfortable meeting outside of the Board meeting, meaning no disrespect.

7. County Rules on Towing

Vernard McBeth asked Management if towing can only be done between 2:00 a.m. and 6:00 a.m. by County rules. Management will check with Craig Wilson on this matter.

8. Emails to Condominium President

Vernard McBeth said he had received several questions from condominium owners on how come their assessments were separate from the HOA. David Holtzman questioned how this information was of importance at this Board meeting. Vernard

Fountain Hills Community Association
Board of Directors Meeting
March 4, 2010

members of the HOA Board are residents of the Condominium, that it is germane to the HOA meeting. Mr. McBeth stated that the Condominiums are over represented by three (3) voting members on the Board and they have a conflict of interest in who they are representing.

9. Condition of Townhouse Common Area by Pool

It was mentioned that the common area next to the pools had tires and lots of dog feces. Management mentioned that this area will be checked when the snow has melted. Shirley Adamkiewicz is willing to head up the enforcement of the By-Laws in Fountain Hills.

10. Condominium Owners on the Board

David Holtzman stated that he resented the implication that condominium members were not able to serve as elected members of the Board. He also stated that, as a Condominium owner, he has a fiduciary responsibility to be impartial and objective as a member of the Board of Directors. Therefore, he felt that Mr. McBeth's earlier remarks were not representative of the Board.

J. ADJOURNMENT

MOTION: (Nicolm Mahabir/Daryl McFadden) Adjourn the Fountain Hills Community Association Board Meeting at 9:30 p.m.

Vote: Motion Passed - Unanimous