

**Fountain Hills Community Association
Board of Directors Meeting
October 2, 2014**

**Approved at the November 6, 2014 Board of Directors Meeting
and Revision as Approved at the February 5, 2015 Board of Directors Meeting**

Board Members Present:

Jackie Arnold, President
Nicolm Mahabir, Vice President
Harry Matchett, Treasurer
Hari Donthi, Secretary
Steven Muse, Director
Frank Walsh, Director

Others Present:

Ruchita Patel, Property Manager
Marylou Bono, Recording Secretary

Homeowners Present:

Jack Greenhouse, 18905 Fountain Hills Drive
Barbara Peressini, 18931 Fountain Hills Drive
Jo Ann Windsor, 18933 Fountain Hills Drive
Sue Adamkiewicz, 13322 Rising Sun Lane
Noreen Frank, 18807 Lake Placid Lane
Oscar Urcia, 13101 Lake Geneva Way
Katie Calder, 13205 Scarlet Mist Way
Manjit Kaur, 18625 Autumn Mist Drive
Keith and Darlene Kerr, 18921 Fountain Hills Drive
Pauline Macomber, 18805 Sparkling Water Drive #204
Mary Yonemurg, 18805 Sparkling Water Drive
David Holtzman, 18715 Sparkling Water Drive
Lean Burleson, 18914 Fountain Hills Drive
Siu Poon, 19020 Noble Oak Drive
Ira Adler, 18808 Sparkling Water Drive
Josely Chiou, 13309 Tivoli Fountain Court
Sherry Lee, 13237 Lake Geneva Way
Marco Mazzarino, 18721 Autumn Mist Drive
Robert Love, 18723 Autumn Mist Drive

In accordance with Section 11B-111 of the Maryland Homeowners Association Act, it is noted for the record that the Board of Directors voted unanimously to hold an Executive Session on September 19, 2014 at 8:15 p.m. at the Fountain Hills community pool house, 18700 Club Run Way, Germantown, Maryland. The purpose of the Executive Session was for the Board of Directors to determine its response to the notice of appeal filed regarding CCOC Case #52-12.

Call to Order

The meeting was called to order at 7:38 pm by Board President Jackie Arnold.

Homeowner Forum

Jackie Arnold opened Homeowner Forum, noting that 3 minutes would be allotted per homeowner in order to allow the Board sufficient time to conduct business.

A homeowner commented that speed humps should be installed to deter excessive speeding on Fountain Hills Drive. Ruchita Patel advised that this was a County roadway and she would supply the County contact information to the homeowner.

Jack Greenhouse of Fountain Hills Drive commented that he was largely satisfied with the community, but that the lack of lighting was an issue of concern.

A homeowner on Fountain Hills Drive reported that he noticed streetlights turning on and off. Ruchita Patel advised that lights on Fountain Hills Drive are the responsibility of Montgomery County and that she recently reported several malfunctioning lights to them. In addition, she noted that lights often cycle on and off at the end of their life. She advised the homeowner that they could call TMGA to report lights that are not operating properly or are out.

David Holtzman, Fountain Hills Condominium Association President, of Sparkling Water Drive had concerns regarding a member of the Board of Directors stalking condominium residents and having their vehicles towed without allegedly complying with the Association's vehicle rules. A number of complaints were received from Condominium residents on Sparkling Water Drive. Mr. Holtzman also stated that the Police have been notified and the Fountain Hills Condominium legal counsel will be following up with the HOA Board. Mr. Holtzman indicated he would be filing a lawsuit against the Fountain Hills Community Association over the recent tows.

Pauline Macomber inquired as to the legality of the tows. Jackie Arnold advised those present that a discussion of towing was on the agenda for discussion later in the meeting.

Jocelyn Chiou of Tivoli Fountain Court was present to obtain the decision from the ARC on her application to install a deck. She also reported noticing that plants were disappearing from the beds on Clopper Road leaving bare spots. She feels that pet owners should be responsible for supplying their own dog bags.

Sue Adamkiewicz noted that she has observed a number of homes with violations such as peeling paint, rotten wood, etc. and inquired as to whether the Enforcement Committee was active. Harry Matchett explained that multiple volunteers are needed to conduct inspections and that the Committee has been delayed due to members' availability. She asked when meetings are held. Mr. Matchett advised that there are no scheduled meetings and that members meet and patrol as needed. She encouraged the Committee to continue their inspections. Mr. Matchett noted that additional volunteers are needed.

Barbara Peressini discussed her concerns regarding the CCOC cases and asked where the funds came from to defend the complaints. She also feels that pet owners should fund the dog bag expenses and not the entire community.

A homeowner inquired as to how legal fees are being paid for the CCOC cases, the current status of these cases and how the appeal affects the community. Jackie Arnold reported that there was currently no additional expense. Harry Matchett advised that the funding came from a general operating fund. Steven Muse inquired as to what appeal the homeowner was referring and asked where she received this information. Marco Mazzarino mentioned the article on the subject in the *Gazette* newspaper. Ruchita Patel advised that the two CCOC cases were combined at one point and that a petition for judicial review had recently been filed. The basis of the appeal is not yet known.

Katie Calder advised that the CCOC cases started as two different complaints, but were eventually joined. One party considers the case closed and the other party has brought the case to the Circuit Court. Ruchita Patel advised that it is early in the process and we will have to wait to see how it plays out. She advised that a copy of the petition for judicial review will be posted on the website.

A homeowner inquired as to the status of delinquent accounts. Ruchita Patel confirmed that the Board approved a contract with Andrews & Lawrence Professional Services to proceed with collection on delinquencies. Several liens have been filed and a number of owners have recently requested payment plans.

Robert Love inquired as to how many homeowners were delinquent and the amount of the delinquent balance. Ruchita Patel advised that the community's current delinquency account balance was \$166,000 and that 107 owners are more than 30 days past due. Mr. Love asked if there was a sudden increase in the delinquencies or if there had been a slow build-up. Harry Matchett advised that the amount has slowly built up to its present level. Mr. Love further advised that he was against speed humps and dog bags and felt that if a Board member was involved in a CCOC case against the community they should resign.

Steven Muse discussed several complaints he had received from homeowners regarding residents attaching CCOC posters to street signs, residents reportedly being told during the HOA meeting that Mr. McBeth and Mr. Muse were responsible for the 100K CCOC legal fees, as well as the article in the *Gazette* regarding the CCOC case. He mentioned that a realtor had told him that she lost a sale because of the fliers. He mentioned that there are three Board members who have been involved in the CCOC case since the beginning. He felt that the *Gazette* did a comprehensive job on the article and that he had copies for anyone who would like one.

Board President Jackie Arnold closed Homeowner Forum at 8:15 pm.

Meeting Minutes

Steven Muse moved to approve the meeting minutes of the August 7, 2014 Board of Directors meeting as previously amended. Hari Donthi seconded the motion. Frank Walsh noted his disagreement with the inclusion of the attachments that Steven Muse had requested.

MOTION: (Steven Muse, Hari Donthi) Accept the minutes of the August 7, 2014 Board of Directors Meeting as previously amended.

Vote: Approved 3-2-1 (Frank Walsh, Nick Mahabir – opposed; Harry Matchett – abstained).

Hari Donthi moved to approve the meeting minutes of the September 4, 2014 Board of Directors meeting as written. Jackie Arnold seconded the motion.

MOTION: (Hari Donthi, Jackie Arnold) Accept the minutes of the September 4, 2014 Board of Directors Meeting as written.

Vote: Approved 4-0-2 (Nick Mahabir, Frank Walsh – abstained).

Committee Reports

Architectural Review Committee (ARC) - Chair Marco Mazzarino reported that the Committee recently reviewed three applications. He advised homeowners to contact him with any questions that they

may have. Frank Walsh inquired as to how many applications the Committee is receiving. Marco advised that about three applications a month are received.

Committee member Robert Love discussed the application for solar panels recently received. He asked those present if they were in favor or against their installation on homes in the community. Ruchita Patel advised that per Maryland law, these applications cannot be denied and that there already are a few in the community. She advised that the Association can impose reasonable restrictions provided that these do not significantly increase the cost of the panels or significantly decrease their efficiency.

Landscaping Committee - Manjit Kaur advised all present that Landscaping Committee meetings are held on the 2nd Wednesday of each month and are open.

She reported that the Committee had some additions to the tree and stump removal list, which she provided to Ruchita Patel. She inquired regarding the guard rail at 13101 Lake Geneva Way and solutions for restricting foot traffic in the area to deter the erosion on the homeowner's property. Ruchita Patel advised that she would follow up with the County regarding replacement of the guardrail.

The Committee felt that more bids for turf renovation should be obtained for next year and that the landscaping budget should be increased. Ruchita Patel advised that \$4,800 had already been spent on removal of high priority trees. She recommended holding off on further turf renovation this year. Turf renovation would be planned for next year and the community would be divided into sections to facilitate completion of this project over time.

Methods and the cost to repair the area at 13101 Lake Geneva Way were discussed. The homeowner, Oscar Urcia, was present and advised that the issue had been ongoing for 9 months and that the erosion is ruining his lawn, which is down to bare dirt. Steven Muse mentioned engaging MOR, who does trail improvements, to see if they had any effective solutions. Manjit Kaur suggested that a bid be obtained from Potomac Garden Center to install larger shrubs. The Board mentioned obtaining feedback from neighbors regarding the installation of a path.

Frank Walsh moved to approve the bid from D&A Dunlevy for a cost not to exceed \$2,720. Hari Donthi seconded the motion. Jackie Arnold discussed the use of the budget. Nick Mahabir said there was a gap in the fencing between the County fence and the Fountain Hills white fence. He supported planting and reseeding. Harry Matchett inquired as to what was available in the budget.

MOTION: (Frank Walsh, Hari Donthi) Approve the bid from D&A Dunlevy for a cost not to exceed \$2,720.

Vote: Failed 3-3-0 (Frank Walsh, Hari Donthi, Nick Mahabir – for; Harry Matchett, Steven Muse, Jackie Arnold – opposed).

Ruchita Patel advised that an additional \$594 was needed to complete the tree removal and replacement work that had been awarded to Potomac Garden Center.

Frank Walsh moved to approve an expenditure of \$594 to Potomac Garden Center to complete the tree removal and replacement work as recommended by the Landscape Committee. Nick Mahabir seconded the motion. Hari Donthi asked if the work was aesthetic or for safety reasons. Ruchita Patel advised that this amount was to address the remainder of the work from last month. Harry Matchett was reluctant to agree as he felt that it was not responsive to homeowners who had specifically mentioned turf renovation as a major concern at last year's annual meeting.

MOTION: (Frank Walsh, Nick Mahibir) Approve \$594 to Potomac Garden Center to finish the tree removal and replacement work.

Vote: Failed 2-4-0 (Frank Walsh, Nick Mahibir – for; Jackie Arnold, Hari Donthi, Harry Matchett and Steven Muse – opposed).

Social Committee - Chair Siu Poon advised that a member of the Committee had resigned and asked if a new member should be appointed. She noted that \$82.23 was spent on the pool party and \$813.26 on the community picnic. She suggested that, due to conflicting dates, the community cleanup and yard sale be postponed until the spring. She advised those present that Committee meetings are open and are held on the 3rd Wednesday of each month at 7 pm.

MOTION: (Harry Matchett/Jackie Arnold) Appoint Virginia Aspilcueta to serve on the Social Committee.

Vote: Motion passed unanimously.

Nick Mahibir noted that all Committee appointments would cease at the Annual Meeting and all members must be reappointed after the Annual Meeting.

Harry Matchett mentioned that a cover for the grill at the pool was needed and suggested that funds come from the Social Committee budget. Harry Matchett offered to purchase one.

Newsletter - Chair Steven Muse had no report.

Enforcement Committee - Chair Harry Matchett reiterated his appeal for Committee volunteers. He advised that review of the current violation enforcement procedures was delayed. Ruchita Patel advised that several homeowners had indicated that they were not sure what to do with the notices. She counseled that the CCOC requires that enforcement letters contain certain wording, which is not in the notices currently being used. She commented that the existing process stalls without action from the Committee. Ms. Patel explained the proposed three-letter process used by TMGA. Harry Matchett advised that about 60 enforcement notices have been sent out by the Committee in the past 1.5 months and that follow-up was pending.

Harry Matchett moved to continue with the existing process for enforcement of architectural violations. Hari Donthi seconded the motion. The question was posed as to why Mr. Matchett feels the Committee should be doing the work and not the management company. Mr. Matchett feels that the Committee can keep better track on their own and that there is no cost. Ruchita Patel advised that the only cost for TMGA to assume the process is the cost to mail out the notices.

MOTION: (Harry Matchett/Hari Donthi) Continue with the existing process for citation and enforcement of architectural violations.

Vote: Motion failed 3-0-3 (Harry Matchett, Hari Donthi, Steven Muse – for; Jackie Arnold, Nick Mahibir, Frank Walsh – abstained).

Harry Matchett moved that, due to the written communication to the Board of Directors received from management regarding CCOC cases filed against the Association and comments made during homeowner forum about potential additional litigation against the Association regarding towing, this matter be discussed in closed session. Jackie Arnold seconded the motion. Frank Walsh felt there was no reason to discuss the matter in a closed session.

MOTION: (Harry Matchett/Jackie Arnold) To discuss towing matters in closed session due to the threat of potential litigation.

Vote: Motion passed 3-1-2 (Frank Walsh – opposed; Hari Donthi, Nick Mahabir – abstained).

David Holtzman inquired as to why towing was not being enforced within the rules. Jackie Arnold advised that it was “allegedly” illegal. Ruchita Patel counseled that any responses regarding the matter should be in writing.

VOTING ITEMS

Parking Space Change Request, 13353 Rushing Water Way

The parking space change request by Mr. Mehta of 13353 Rushing Water Way was discussed. Mr. Mehta advised that the numbering of the spaces was changed when the most recent sealcoating was done. Sherry Lee of the Enforcement Committee advised that she had investigated the matter and that there was a dispute between neighbors regarding parking over the lines and hitting each other’s vehicles.

Hari Donthi moved to switch one of the handicap spaces in the row so that Mr. Mehta’s space could be relocated. Frank Walsh seconded the motion. Hari Donthi inquired regarding handicap rules and if a curb cut was needed.

MOTION: (Hari Donthi, Frank Walsh) Switch one of the handicap spaces in the row at 13353 Rushing Water Way to a currently open space and relocate one of Mr. Mehta’s reserved parking spaces to where the handicap space had been.

Vote: Motion passed 3-2-1 (Harry Matchett, Steven Muse – opposed; Nick Mahabir – abstained).

Board Decisions at Meetings

MOTION: (Jackie Arnold, Hari Donthi) Restructure order of meeting discussion to Voting Items first, then Committee Reports and finally Homeowner Forum.

Vote: Vote count was 4-2. Frank Walsh and Nick Mahabir opposed.

Hari Donthi moved that the Board adjourn to closed session to discuss towing matters. Jackie Arnold seconded the motion. Frank Walsh objected to Hari Donthi’s calling for the motion as it was Harry Matchett who originally requested a closed session. Hari Donthi rescinded his motion.

Jackie Arnold moved to invite Sherry Lee, as a member of the Enforcement Committee, to remain for the closed session. Hari Donthi seconded the motion. Frank Walsh inquired as to why a non-Board member was being invited to a closed session.

MOTION: (Jackie Arnold, Hari Donthi) Invite Enforcement Committee member (Sherry Lee) to remain for the Executive Session to discuss towing matters.

Vote: Motion passed 5-1-0 (Frank Walsh – opposed).

MOTION: (Hari Donthi, Jackie Arnold) In accordance with Section 11B-111 of the Maryland Homeowners Association Act, the Board of Directors moved to go into Executive Session at 9:48 pm for the purpose of discussing the towing enforcement process due to the threat of potential litigation.

Vote: Motion passed 5-1-0 (Frank Walsh – opposed).

Homeowners present were asked to depart the meeting as the Board would proceed to closed session to discuss towing matters. Members of the Enforcement Committee were asked to remain (Sherry Lee).

Steven Muse departed the meeting at 10:10 p.m.
The Board returned to an open Board meeting at 10:36 pm.

Harry Matchett discussed fire lane signs on Autumn Mist Drive and Circle and the fact that the County Fire Marshall reported that signage in this area is not compliant. Missing signs should have been installed 14 years ago. G&G Towing advised that they will install the signs free of charge.

MOTION: (Harry Matchett, Nick Mahabir) Ask G&G Towing to install fire lane signs on Autumn Mist Drive per the diagram provided by DFRS at no cost.

Vote: Motion passed unanimously.

Jackie Arnold commented that something should be communicated to the condominium members whose vehicles were towed.

Frank Walsh moved to obtain a legal opinion regarding the towing issue. The motion died for lack of a second.

Harry Matchett moved that, based on the suggestion from Montgomery County, additional signage be installed by the pool and Rising Sun Lane, Niagara Falls Court, Champions Way and the townhouse areas to indicate Fountain Hills townhouse parking only. Per G&G Towing, they will supply 15 signs at no charge. Nick Mahabir seconded the motion. Ruchita Patel advised that this can be done on the townhouse streets, but not around the pool. The pool area must have different signage. Frank Walsh contended that any unassigned parking space in the community can be used by any community member.

Harry Matchett amended his motion to say that additional signage be installed in all townhouse areas only. Nick Mahabir accepted the amendment and seconded the motion.

MOTION: (Harry Matchett, Nick Mahabir) Ask G&G Towing to install signage at no cost at all townhouse areas stating that parking spaces are for townhouse resident parking only.

Vote: Motion passed 4-1-0 (Frank Walsh – opposed).

Hari Donthi moved to obtain a legal opinion regarding the legality of towing from around the pool and the unmarked spaces in the community. Frank Walsh seconded the motion. Jackie Arnold asked that whatever information has already been collected on the towing matters be given to the attorney and the rest of the Board so that everyone has all the information as to why the Enforcement Committee feels that the tows are legal. Hari Donthi amended his motion accordingly and Frank Walsh seconded the amendment.

Nick Mahabir departed the meeting at 10:59 pm.

Following discussion, Hari Donthi rescinded his motion.

Ruchita Patel once again reiterated her dismay at the Board's reluctance to obtain a legal opinion on the matter. There was some discussion on how to resolve the issues, whether to talk with the condominium members and the cost of a legal opinion.

Adjournment

MOTION: (Hari Donthi, Jackie Arnold) Adjourn the Board of Directors meeting at 11:11 pm.
Vote: Motion passed unanimously

Submitted by: Marylou Bono, The Management Group Associates, Inc.

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