

Corrected as approved on December 1, 2016

**Fountain Hills Community Association  
Board of Directors Meeting  
October 6, 2016**

The Board of Directors of Fountain Hills Community Association held a Board of Directors at the Germantown Upcounty Center on Thursday, October 6, 2016 at 7:30 p.m.

**Board Members Present:**

Tom Brennan, President  
Nick Mahabir, Vice President  
Harry Matchett, Treasurer  
Hari Donthi, Director  
Sherry Lee, Director  
Siu Poon, Director

**Also Present:**

Julie Hoffman, Community Manager  
Richard Allen, Recording Secretary

**Board Member Absent:**

Frank Walsh, Secretary

**A. CALL TO ORDER**

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

**B. CLOSED MEETING**

**MOTION:** (Tom Brennan/Siu Poon) Move into Closed Meeting at 7:32 p.m.

**Vote:** Motion Passed – 6 ayes/0 nays/0 abstentions

**C. RESULTS OF THE CLOSED MEETING**

The Board took action on a request for a towing reimbursement and on two payment plans.  
(The Closed Meeting was adjourned at 7:56 p.m.)

**D. MINUTES**

1. September 1, 2016 Board of Directors Meeting Minutes

**MOTION:** (Tom Brennan/Siu Poon) Approve the September 1, 2016 Board of Directors Meeting Minutes as edited by all Board members.

**Vote:** Motion Passed – 5 ayes/1 nay (Mahabir)/0 abstention

**E. TOT LOT MULCH**

Management provided proposals from PGC Landscape and D & A Dunlevy for mulch for the tot lots. The cost of the proposal from PGC Landscape is \$17,293.900. There were two (2) prices for depth of the mulch from Dunlevy: five inch (5”) compacted depth of engineered wood fiber for \$12,455.00 and seven inch (7”) compacted depth of engineered wood fiber for \$16,575.00.

The Board requested that Management check minutes from 2015, as bids for the same work were thought to have been significantly lower.

Management was also asked to investigate other materials, including the soft foam material used in some playgrounds and “wood chips” derived from used tires.

The Board also discussed how one of the tot lots is on a slope and due to the location of the handicap-accessible entry to the tot lot being on the lower side, the wood chips wash out during rain storms. Management was asked to investigate the work that would need to be undertaken to move the handicap-accessible entry to the uphill side of the tot lot.

#### **F. REQUIRED MAINTENANCE OF STORM WATER PONDS**

The results of inspections by Montgomery County of the Storm Water Ponds were discussed by the Board. The ponds were inspected over several days in March and April 2016 and the reports were sent on July 11, 2016. The Board noted that this item was briefly discussed during the September Board meeting and the Board authorized Management to approve the work, not realizing that the cost would be more than Management’s \$2,000.00 spending limit.

Violations were issued for seven (7) of the ponds. Several Board members noted that they had walked by some of these ponds and could not locate the one on Harmony Woods Lane.

At the September Board meeting, it was noted that Tom Brennan had worked with the County to obtain an extension on correction of the violations until October 10, 2016. Subsequently, Management discussed this with Stephen Pullam, Stormwater Facility Maintenance Inspector for the Montgomery County Department of Environmental Protection, who indicated that FHCA must at least have a contract in place by October 10, 2016. The risk to the Association is that the County may fine the Association \$750.00 for the first day and \$500.00 for each subsequent day that the work isn’t completed. These fines would accrue for each pond, so there is the potential for approximately \$150,000.00 in fines for each month the work isn’t completed. Further, it was noted that the County considers this to be the third time that FHCA has been in violation, there is potential for significant fines, although members of the Board were not aware of prior violations.

The County further requires that all work on the ponds be done by an approved contractor. Management has reached out to several and identified one, Brighton Dam Landscaping, who particularly stood out. Brighton Dam Landscaping provided a proposal totaling \$32,700.00 to address the violations at all seven (7) ponds, of which approximately half the cost is for one of the ponds.

The seven (7) ponds, Stormwater Inspection and Maintenance Work Orders, and proposed maintenance costs from Brighton Dam Landscaping are:

1. Autumn Mist Circle (Work Order 121160), \$17,475.00
2. Autumn Mist Circle (121163), \$2,125.00
3. Harmony Woods Lane (122980), \$3,325.00
4. Lake Geneva Way (122118), \$1,975.00
5. Lake Geneva Way (122116), \$2,375.00
6. Porterfield Way (121839), \$4,920.00
7. Rushing Water Way (121838), \$525.00

Management noted that if approval of the work was deferred, an emergency meeting of the Board would have to be held before October 10th.

The Board questioned whether this amount of work was needed since the stormwater ponds were recently transferred to the County and were inspected at that time and no violations were reported at that time.

The Board also asked about the requirement in the Management contract that at least three (3) bids be provided for all work; it was noted in response that Sewer and Stormwater Management were the two (2) exceptions in the contract. The Board also discussed whether the cost of the stormwater ponds maintenance was a reserve expense.

Harry Matchett stated that is irresponsible of the Board to consider expenses of this magnitude with only one (1) proposal and a lack of understanding of the level of work required. He also stated these are not reserve expenditures.

**MOTION:** (Nick Mahabir/Tom Brennan) Accept the proposal from Brighton Dam Landscaping in the amount of \$32,700.00, with the order of work to follow as Items 2, 3, 4, 5, 6, and 1.

**Vote:** Motion Passed – 4 ayes/1 nay (Matchett)/1 abstention (Lee)

## G. CONTRACTS

### 1. Fountains

RFPs have been sent to the following contractors for fountain maintenance: Cascade Fountains, Community Pools, and Harmony Ponds.

So far, only Cascade Fountains has inspected the fountains. The repairs to the fountains will be paid from reserves and the maintenance from the operating budget.

### 2. Snow Removal

RFPs have gone out to the following contractors for snow removal for the 2016/2017 snow season: Bethke Landscaping, Brighton Dam Landscaping, D & A Dunlevy, and Potomac Garden Center.

The Board and Management discussed the 2015/2016 snow season and FHCA's experience with Dunlevy for snow removal. The Board indicated that they believed that Dunlevy billed for hours and work that was not performed, and it was observed that Dunlevy often came and "plowed sunshine", as a minimum amount of snow to be plowed was stated in the contract.

FHCA disputed the charges, but ended up paying the full amount since Dunlevy also had the contract for landscaping and indicated that the landscaping work wouldn't begin until the snow removal bills were paid.

## H. ANNUAL MEETING

A copy of the materials sent to homeowners regarding the upcoming Annual Meeting was included with the Board packet. The Annual meeting will be held in conjunction with the next Board meeting on November 9th; it was moved to this date to allow IKO to provide additional staff to support the meeting.

## I. COMMITTEE REPORTS

### 1. Architectural Review Committee (ARC)

Siu Poon reported that the ARC had recently addressed three (3) applications: two (2) requesting approvals to install screen doors and one (1) requesting approval to install solar panels.

2. Enforcement Committee

Harry Matchett and Sherry Lee reported that there was one (1) tow from FHCA in the past month for a car parked in a fire lane.

3. Pool Committee

- a. A leak was discovered in the ceiling of the pool house and repairs were performed by Gardener's General Contractors. Members of the Board who inspected this leak reported their concerns that part of the damage appeared to not be water-related.
- b. Community Pools has completed their work on the pool for the season.
- c. It was noted that the water line to the pool must be turned off at the street. None of the Board members remember that this was required in previous years.
- d. The lounge chairs in need of repair are in the storage unit adjacent to the pool. However, since these chairs are extras, no repairs are to be done at this time.
- e. Repairs are needed to the steps on one (1) of the lifeguard chairs.
- f. The Board discussed how, each year, FHCA pays a plumber to repair the water fountains at the pool, but they keep failing. Management was asked to investigate whether the water fountains are required to be kept operational; if not, the Board suggested they be permanently turned off.

4. Social Committee

- a. Siu Poon reported that the picnic held on September 3<sup>rd</sup> was successful and the total cost was \$493.40. Ms. Poon noted that the veggie burgers and the hot dogs were both very popular.
- b. The Board appreciation dinner, which has not been held for two (2) years due to the financial condition of FHCA was discussed. The Board agreed not to have one in 2016.

**J. MANAGEMENT REPORT**

1. Financial Report

Management reported that the Income and Expense statements for the month ending August 31, 2016 reflected that the Association collected \$67,667.75 in combined income. Operational expenses for the month were \$52,074.61, which resulted in a net income of \$15,593.14 for the month. The Association is currently showing a net income of \$23,599.54 for the year-to-date.

2. Delinquent Accounts Summary

Management reported that, as of July 31, 2016, total accounts receivable totaled \$199,944.38. As of August 31, 2016, delinquencies have dropped to \$194,662.19, a difference of \$5,282.19.

3. Open Invoices

Management reported that there are no open invoices as of October 6, 2016.

4. Reserve Contributions

Management reported that, per the direction of the Board, the following amounts were transferred from the operating account to the following reserve accounts to bring the Association current with its reserve contributions and that these transfers will be reflected on the September financials:

General Reserves - \$37,284.00 (six months of contributions at \$6,214.00/month)

Townhouse Reserves - \$36,426.48 (six months of contributions at \$6071.08/month)

Village Reserves - \$2,702.46 (six months of contributions at \$450.41/month)

5. 2016 Financial Audit

Management noted that Goldklang Group is presently working on the audit for the year ended June 30, 2016 and reported that the audit should be done within the next couple of weeks.

The Board requested that Management ask Goldklang Group to provide a preliminary working trail balance as soon as it is available.

6. Reinvestment of Reserve Funds

Management noted that, per the direction of the Board, investments were made into two CDs with the following terms:

\$112,633.64 – 1.60% Fixed – Matures 9/6/2021

\$100,280.68 – 1.55% Fixed – Matures 7/6/2021

7. Legal Counsel Retainer Agreement

Management reported that, per the direction of the Board, and as included in the legal retainer agreement, Whiteford, Taylor, & Preston was requested to review the FHCA governing documents. To date, no report has been received.

8. Tree Work Update

Per the direction of the Board, Management sent Lee's Tree Service approval for the removal of one tree at 18625 Autumn Mist Drive, at a price not to exceed \$1,575.00, the amount of their recent estimate. A 10% discount will be applied when the work is completed and billed. Lee's Tree Service has scheduled this work for October 14.

Management inspected the tree at 19009 Mediterranean Drive and found it to be a healthy tree in need of pruning. Management will request that the landscape contractors prune this tree. Management also discussed this situation with Tom Brennan, and it was agreed that there are erosion-related issues with the hill upon which the tree is planted. One (1) option for solving this problem is to fortify the hill in some manner, possibly with railroad ties, after a drain has been installed to direct the water away from the rear yards.

Members of the Board have spoken with the homeowner and observed this tree and noted that branches are touching the neighboring house. In addition, the sunlight is blocked, preventing grass from growing under the tree, which promotes erosion. The Board requested that Management look into solutions for this tree.

Board members also raised the issue that there are trees throughout the community encroaching onto homes or near enough to hit nearby homes during windstorms. The Board suggested that an evaluation of trees throughout the community be undertaken.

9. Fountain Maintenance Fees

At the September 2016 Board meeting, a question was raised regarding refunding of the monies allocated in the 2016 budget for the operation and maintenance of the fountains. The money would be refunded to all residents, in the form of a credit to their account, who have been charged for such amenity in the same ratio that they were charged.

Management noted that Article XI, Section 3 of the Declaration, contains a limitation of liability provision which states the "Association shall not be liable for any failure of any services obtained by the Association or paid for out of the common expense funds .... " The Section further states that "No diminution or abatement of assessments...shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or for improvements to the Common Areas, Community Facilities or Private Streets and Roadways ... " Therefore, although the fountains in the community may not be working, the Association is not liable to the owners for reimbursement of assessments attributable to the fountains.

10. Resident Email Lists

Management noted that the Association has an active email list with Mail Chimp used to send out email blasts, newsletters, etc. This is in addition to the Gate.com platform that is used for the Community website. Management also noted that this list is incomplete and suggested sending out a brief reminder with the Annual Meeting letter, requesting email addresses from residents.

11. Trash Trucks in the Village Homes

Recently, there has been an issue with the trash trucks in the Village Homes. Some residents called the trash company directly and insisted that they should stop using the alleys for trash pick-up, due to oil leaking onto the alleys and trucks driving over resident's driveways. The alleys affected are Noble Court and Malcombs Cove Court. Since then, the drivers have been stopping at the ends of the alleys and the trash company employees have been pulling the trash from the backs of the houses to the trucks.

It was noted that the company should not have changed their procedure without direction from Management or the Board. It was also noted that there is a sentence in the by-laws that indicates trash is to be placed by the curb nearest the resident's house, that is, not the alley. If the community wanted to change the by-laws, it would require a vote of seventy-five percent (75%) of the houses, considered by the Board to be impossible.

Management will check on the wording in the contract and report back to the Board.

**K. HOMEOWNER OPEN FORUM**

1. JoAnn Windsor asked if the Board would permit her to call the trash company and find out the exact details of the problems. The Board indicated that they couldn't stop her, but that the trash company would likely refuse to answer her.

Ms. Windsor also asked if IKO was using separate email lists for the blasts, etc. and for the newsletter. Management noted that they are using the same list for these types of mailings. Ms. Windsor further asked if the list could be split into different groups to allow for emails that only go to the single family, the townhomes, the condos, etc.

2. David Holtzman expressed his displeasure with the Board's approach to addressing the violations at the Stormwater Management Ponds. He stated that the Board is supposed to make decisions based on facts and follow sound business practices and that Management is supposed to provide appropriate information and, in his opinion, they did neither.

Mr. Holtzman also stated that he believed that the towing in August was highly selective, only towing vehicles that had Condominium tags. He noted that in the past month that a semi-trailer was parked in the Community and that nothing was done about this. Board President Tom Brennan answered that Mr. Holtzman was making assumptions that nothing was done about this vehicle.

Mr. Holtzman also noted that the files with the Maryland Department of Assessments and Taxation Business Services have not yet been updated to reflect that TMGA is no longer the management agent for FHCA. Mr. Holtzman handed out a printout from the DAT web site, dated October 6, 2016, showing this information.

Mr. Holtzman also noted that, in his opinion, the planning for the Annual Meeting has been slapdash and is being put together at the last minute, necessitating a delay in the meeting date by a week. The Board and Management noted that the change was due to IKO staffing requirements and the meeting preparation was on schedule as it has been in the past.

**L. ADJOURNMENT**

**MOTION:** (Tom Brennan/Siu Poon) Adjourn the Board of Directors Meeting at 9:55 p.m.

**Vote:** Motion Passed – 5 ayes/1 nay (Brennan)/0 abstention