

Fountain Hills Community Association
Board of Directors Meeting
July 1, 2021

The Board of Directors of Fountain Hills Community Association held a Virtual Board of Directors Meeting on Thursday, July 1, 2021 at 7:30 p.m.

Board Members Present:

Jeff Chai, President
Nancy Dofflemyer, Vice President
Jeff Green, Treasurer
Grant Izmirlian, Secretary
David Holtzman, Member at Large, 7:37 p.m.
Nicolm Mahabir, Member at Large
Frank Walsh, Member at Large, 8:06 p.m.

Management Present:

Delphine Matthews, Portfolio Manager
Marcy Grove, Recording Secretary

Guest: Peter Miller, Miller & Dodson Associates

I. CALL TO ORDER

The Board of Directors Meeting was called to order by Jeff Chai at 7:32 p.m. with a quorum of five members present. The remaining two Board members arrived later.

II. PREVIOUS MEETING MINUTES

The Board of Directors received draft minutes for the June 3, 2021 meeting. Jeff Green noted a correction to a dollar amount, Jeff Chai's surname was also incorrectly spelled. **Jeff Chai made a motion seconded by Jeff Green to approve the draft minutes with these amendments. The motion carried five to zero to one, Nicolm Mahabir abstaining.**

III.COMMITTEE REPORTS

A. Architectural Control Committee

The committee reviewed four applications, approving three and deferring one for incomplete documentation. A discussion of hedges used as fences occurred at the meeting, with the determination that hedges when so utilized would be considered a fence, the topic having arisen from a homeowner inquiry to the Enforcement Committee.

B. Enforcement Committee

Jeff Green highlighted the draft parking policy presented for Board review and feedback prior to submission to legal counsel for review. The Board of Directors will add the draft policy to the August meeting agenda. The June inspection resulted in 130 notices, mainly focused on landscaping issues.

C. Landscape Committee

The Landscape Committee did not hold a June meeting. The annual plantings were enhanced, one watering was recommended and occurred June 29. Fall plantings will be considered next.

IV. OLD BUSINESS

A. Revised Fountain Maintenance Proposal

Delphine Matthews reported that Fountains by Waterworks final offer for a three-year commitment accepted by the deadline of August 15, 2021 would deliver a savings of \$3,147 over the time period; the number of contractors offering this service are limited. Nancy Dofflemyer observed the contractor has presented diligence in his frequent visits to the property maintaining the fountains and circumventing the vandalism; she endorses acceptance of the contract.

Grant Izmirlian delivered a motion to accept the three-year maintenance proposal from Fountains by Water Works at a total of \$32,206. Jeff Green seconded the motion which was ratified six to zero to zero.

V. RESERVE STUDY REVIEW

Peter Miller, principal of Miller & Dodson Associates, attended to discuss the reserve study. He explained the purpose of a reserve study was provide a financial strategy to protect, preserve and enhance a community in a timely manner. Maintaining and stabilizing assets in a manner to distribute expenses equitably to members over time and planning to prevent tragedies such as the Surfside Beach collapse will support property values and the creation of a financially sustainable community.

Miller & Dodson performed reserve studies for the Fountain Hills Community Association in 2008, 2012 and 2020. The community has followed the recommendation issued and enacted appropriate reserve funding increases. Peter Miller further suggested the Association establish separation of assets to be funded from the reserve, distinct from maintenance and operating items. The reserve criteria should be assets with a life expectancy of three years or more and a minimum replacement value of \$3,000. Under the new Maryland law HB 567, associations in Montgomery County will be required to conduct reserve studies every five years and allocate the recommended reserve funding in the annual budget.

Delphine Matthew inquired whether a maintenance process such as striping may be incorporated as a reserve expense when required as part of a capital project such as paving. Alternatively, could tree removal, pruning and replanting be categorized as a reserve expense? Peter Miller replied the IRS determines whether a process is a reserve or maintenance/operations expense and painting is typically disallowed. Any annual maintenance process is not considered a reserve expense item. The Association CPA would need to confirm the validity of gray areas such as painting/striping to be defined as a reserve expenditure. Tree work could be classed as such if the CPA confirms. The reserve study should cover assets which are valued by residents and the study updated every three to five years to reflect any changes in valued items.

Jeff Chai asked how upgraded replacements are handled. Peter Miller noted that new assets should be paid for with operating funds, then would be assessed in the next reserve study and the schedule adjusted accordingly.

With no other questions, Jeff Chai thanked Peter Miller for his attendance.

VI. NEW BUSINESS

A. Tree Trimming

Delphine Matthews noted that while the first tree removal and pruning proposal as well as the change order have been completed, further tree maintenance remains to be addressed throughout

the community and recommended the Association engage Kevin Elliott Tree Service for four days of bulk trimming on a time basis, proposed at \$2,500 per day. Jeff Chai enquired how the new locations had been determined; Delphine Matthews reported that a combination of homeowner requests and inspections had developed the list. Nancy Dofflemyer asked which fund would be used for this proposed project and whether sufficient funds would remain to respond to emergency tree needs. Delphine Matthews reported the tree maintenance budget of \$10,000 would be consumed but emergency service could be funded from the operating contingency fund. Jeff Green stated substantial tree lines along rear property lines and streets should be addressed. Jeff Chai asked how the selected areas should be prioritized; Jeff Green offered a list including the Harmony Woods Lane island, Niagara Falls Court, Champions Way, behind Little Star Lane, Rising Sun Lane, the perimeter of the church, behind Tivoli Fountain Court and the Autumn Mist Drive rear property lines backing to Rushing Water Way and Autumn Mist Circle.

David Holtzman motioned to approve four days of tree trimming for a total of \$10,000 by Kevin Elliott Tree Service. Jeff Chai seconded the motion which carried unanimously, six to zero to zero.

B. Crack Filling

Delphine Matthews presented a change order from Finley Asphalt to crack fill areas not part of the initial asphalt project for \$12,500 as a capital expenditure; streets to be treated would include Niagara Falls Court, Hamlet Square Court, Champions Way, Rising Sun Lane, Village Fountain Drive, Little Star Lane, Fountain Club Drive, Noble Oaks Drive and Cary. The process would extend the life of the asphalt. Upon a query from Jeff Chai, Jeff Green verified the funds are available. David Holtzman asked to clarify whether the funding source would be from the Village townhome and townhome reserves as these streets are within those neighborhoods. Delphine Matthews confirmed the funds would be drawn from the Village townhome and townhome reserves.

Jeff Chai made a motion to approve the \$12,500 change order from Finley Asphalt for crack filling; Nancy Dofflemyer seconded the motion. The motion was approved seven to zero to zero.

C. Lake Geneva Way Tot Lot Fence

On June 29, management received reports of a hazardous fence at this tot lot which abuts a parking area and street. The split rail fence is unstable and the wood has deteriorated. For removal and replacement, Gardener's presented a price of \$6,100 and Brightview a price of \$5,875; a third contractor price is expected on July 2. This expense would be borne by the reserve fund. Jeff Green observed the reserve study supports the estimates presented.

Frank Walsh inquired about the fence replacement for the Little Star Lane tot lot and the option to research different, possibly less expensive styles. Delphine Matthews reported she has one quote of \$5,100 for the Little Star Lane fence but the condition at that tot lot does not present as critical a safety hazard as at the Lake Geneva way location. Obtaining further quotes to include both fences would slow the Association's reaction to a known hazard. David Holtzman observed installing split rail fence would maintain continuity throughout the neighborhood. Nancy Dofflemyer supported rapid response to the current issue at the Lake Geneva Way tot lot. Jeff Green noted the location of the Lake Geneva Way tot lot presents potential danger from vehicles. Jeff Chai stated the Little Star Lane location does not experience the same safety issues. Management was directed to obtain proposals to replace the Little Star Lane tot lot fence for consideration at the August Board meeting.

Grant Izmirlian presented a motion to replace the Lake Geneva Way split rail fence at a cost not to exceed \$5.875. Frank Walsh seconded the motion with carried six ayes to one nay (David Holtzman) to zero abstentions.

D. Architectural Request Appeal

18625 Village Fountain Drive appealed an ARC denial of a proposed deck; the denial was based upon the size of the deck not conforming to the community ARC Guidelines required a five-foot setback from the rear property line. The owners explained the lot back to the church and is not visible to neighbors. Another home on the same street has installed a deck with an equivalent footprint to the proposed deck.

David Holtzman noted the other home's deck would be a matter for the Enforcement Committee; he stated the setback requirement in the guidelines is to assure emergency response and maintenance access. Jeff Chai asked whether the ARC Guidelines could be amended. Jeff Green answered that the ARC Guidelines may be amended by the Board of Directors from time to time. If Montgomery County would approve the proposed deck why could the Board not assent? Frank Walsh endorsed commitment to maintain architectural continuity and not set a precedent. Delphine Matthews inquired why the owners did not wish to observe the five-foot setback. The owners replied due to the expense of installing a deck, their preference is to maximize its size.

David Holtzman noted that Article VIII, Section 3 of the Declaration does not allow the Board of Directors to overturn the decision of the Architectural Committee.

David Holtzman motioned the Board of Directors not consider the appeal and was seconded by Frank Walsh. The motion was later withdrawn.

Jeff Green noted that under the Declaration Article VIII, Section 7, owners may appeal the ARC Committee decision to the Board of Directors, who may overturn the decision by a two-thirds majority vote. Management recommended that consistency be exerted in making decisions so as to preclude a domino effect of appeals and exceptions. Nicolm Mahabir was disinclined to approve any exceptions to the guidelines and request approval from the church; Grant Izmirlian noted the church is not a member of the Association.

Frank Walsh motioned to deny the appeal and uphold the Architectural Committee's decision. David Holtzman seconded the motion. The vote was called and the result was three ayes, four nays (Jeff Chai, Nancy Dofflemyer, Jeff Green, Grant Izmirlian), with no abstentions.

The motion failed.

Jeff Chai presented a motion to approve an exception of the five-foot setback for this lot only on the basis of a unique location with trees and no impact on neighboring lots. Grant Izmirlian seconded the motion. The vote results were four ayes, three nays (Nicolm Mahabir, David Holtzman and Frank Walsh) with zero abstentions. The motion failed.

With the Board of Directors not presenting a two-thirds majority vote to overturn or alter the Architectural Committee's decision, the decision stands to deny the deck as proposed.

○ E. Homeowner Waiver Request

An owner requested the Board of Directors waive the replacement fee for pool passes.

Upon a motion by Jeff Chai to deny the request, seconded by Frank Walsh, the Board of Directors refused to waive any replacement fees with a vote of seven to zero to zero.

F. Homeowner Appeal Violation Notice

19020 Noble Oak Drive was issued a violation notice regarding a fence and wished to appeal the notice to the Board of Directors.

Jeff Chai made a motion to hear the appeal at this meeting which was not supported. The motion was withdrawn.

Jeff Green motioned to hear the appeal at the August meeting and to stay any enforcement action regarding the fence until the appeal is heard. Nancy Dofflemyer seconded the motion, which carried seven to zero to zero.

G. Storm Water Fee Reimbursement (August 5 Amendment)

David Holtzman inquired as to the status of this reimbursement and as to its classification as a fee rather than a tax. Delphine Matthews replied the accounting department has been assigned the request and she would check on its status; classification of the fee should be determined by the Association attorney.

VII. HOMEOWNER FORUM

Grant Izmirlian reported erosion between Liberty Mill Road and Scarlet Mist Way, requesting this be addressed. Nancy Dofflemyer recommended the Landscape Committee investigate the area.

Nancy Fazio commended the Board of Directors for the good work they have done keeping up the neighborhood, and recommended homeowners should be reminded to do the same on their lots. She has observed mildew, chipped paint and some unkempt lawns. Parking compression on Porterfield Way and Noble Oak Drive has impeded emergency vehicle access. David Holtzman explained the parking issue should be reported to Montgomery County as these streets fall under their authority. Jeff Green stated the Enforcement Committee is addressing homeowners individually regarding the noted conditions.

VIII. ADJOURNMENT

Jeff Chai moved to adjourn Board of Directors meeting at 9:39 p.m. The motion was seconded by Jeff Green and carried unanimously, seven to zero to zero.

Respectfully Submitted,

Marcy Grove