

**Fountain Hills Community Association  
Board of Directors Meeting  
May 6, 2010**

The Board of Directors Of Fountain Hills Community Association held a Board of Directors Meeting at the Upcounty Regional Services Center on Thursday, May 6, 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 Manager  
Craig Wilson, Vanguard Management  
Ruth Ann Allen, Recording Secretary

**Homeowners Present:**

Sue Adamkiewicz, 13322 Rising Sun Lane

**A. CALL TO ORDER**

The May Board of Directors Meeting was called to order by Nicolm Mahabir at 7:35 p.m.

**B. MINUTES**

**MOTION:** (David Holtzman/Steven Muse) Accept the Board of Directors Meeting Minutes from April 15, 2010 as amended.

**Vote:** Motion Passed - Unanimous

**C. MANAGEMENT REPORT**

1. Resident Complaint

Nicolm Mahabir was disturbed by the complaint from a resident of Fountain Hills. He stated that comments from residents such as this show there is a problem with the authority of the Board and creates bad publicity.

Mr. Mahabir wanted to clarify the issues so the Board can move forward. Authority is given to the Board by the community as an entity except when the Board delegates to an individual or group as a Board represented body. No individual can usurp the authority of the Board.

Secondly, the Board is a servant of the community at large. The Board needs to create a good relationship with the community, so the Board is held with respect and responsibility.

David Holtzman inquired how a Board member should respond to teenagers who

are doing drugs on the common area of the community. Mr. Mahabir responded that such an incident should be reported to the police. Mr. Holtzman also inquired how to handle the situation of young children damaging flowers around the fountains. Mr. Mahabir stated a resident of the community can handle this situation. If the resident is also a Board member, then the Board member should be acting as a resident, not a Board member.

Steven Muse stated that the complaint by the homeowner should be addressed. A letter should be sent to the homeowner apologizing, acknowledging the concerns, and stating that the Board will address the concerns that were raised.

Mr. Muse also stated that members of the Board have not been involved with the enforcement of the rules and regulations in the community and that the Condominium does not want to be part of the Enforcement Committee. The Condominium doesn't want the HOA to address ~~want~~ plain view violations in the Condominium, but yet the Condominium Board members can enforce rules in other parts of the community.

Mr. Muse stated that Hamlet Square Court should be the number one (#1) concern in the community as it is in such disrepair.

David Holtzman stated that in the email from the resident on April 6<sup>th</sup>, there are no allegation of concerns about Board members enforcing the rules. Secondly, the parking refers to last summer or fall when a baseball game was on the baseball field and there were complaints about the lack of parking on Champions Way. Thirdly, the homeowners were using the property of the abandoned house as their own, short of calling the police there is not much that could be done.

Mr. Muse asked that since the Condominium is separate from the single family homes, by what authority did Mr. Holtzman feel free to act. Mr. Holtzman replied that he is free to act as an elected member of the Board, a homeowner of the Fountain Hills HOA, and also a homeowner of the Fountain Hills Condominium. But Mr. Holtzman stated that he was acting as a homeowner of the community, not a member of the Board. Mr. Mahabir stated that enforcement issues should be delegated by authority, not taken on by a single Board member.

Vernard McBeth asked how does someone separate out being a Board member from being a citizen of the community, especially when a resident knows you are a member of the Board. Telling children to get out of the flowers is a different issue than approaching other adults in the community. Also, the Board needs to decide how to handle people's properties. Mr. McBeth has spoken with the resident and drives the community ~~one~~ ~~once~~ or twice a week. Hamlet Square Court should not have been allowed to become this bad. The homeowner would appreciate any help the Board can do. The Board needs to decide how to handle plain site violations, especially on Hamlet Square Court.

## 2.. Reimbursement for **Parking Lot Repairs and Seal Coating** in Fountain Hills Condominium

Fountain Hills Community Association  
Board of Directors Meeting  
May 6, 2010

Nicolm Mahabir requested that the issue of reimbursement requested by the Fountain Hills Condominium for seal coating **and repairs** of the parking lot next to the pool be placed on the agenda this month again ~~to~~ **in** order for the Board to review supporting documents. Mr. Mahabir stated that after reviewing the supporting documents, in his opinion, there is no compelling reason to change the vote of the Board several months ago to deny the reimbursement. Mr. Mahabir stated that the motion can be voted on again, but there is no justification.

Frank Walsh stated that the vote for reimbursement was tabled.

David Holtzman stated that it was in the best interest of the community to repair the parking lot. The Condominium Board agreed that it was best to go ahead with the repair. Frank Walsh also stated that the second bid for the work was half the price of the original bid, and the work would not have been done if the pool had not been leaking. Craig Wilson stated that the engineer did not say it was the Association's water that caused the damage, as other parts of the parking lot looked the same. Mr.

Holtzman

stated that it was O'Leary Asphalt that stated that information.

**MOTION:** (Nicolm Mahabir/Steven Muse) Deny the reimbursement to Fountain Hills Condominium for the seal coating **and repairs** of the parking lot next to the pool.

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

3. Request for Waiver of Late Fee

The homeowner of 13401 Fountain Club Drive, Unit 304 is requesting a waiver of the \$5.00 late fee. The homeowner stated that she was ill and unable to send the payment out. The homeowner has a good payment history and has not requested a waiver before.

**MOTION:** (Brandon Dart/Daryl McFadden) Accept the waiver of the \$5.00 late fee for 13401 Fountain Club Drive, Unit 304.

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

4. ARC Application for 14322 Fountain Club Drive

The homeowner is requesting installation of a small retaining wall in front of the bushes along the front of the town home. Shrubs will also be planted. Frank Walsh stated that the homeowner cannot decide on the height as it states 1 - 1.5 feet high.

**MOTION:** (Steven Muse) Accept the installation of the retaining wall not to exceed two (2) feet high from grade.

David Holtzman stated that this motion includes an architectural change, and if the Board wants to modify the application, then it should be denied and sent back. The application should be approved as submitted or denied.

**Motion was rescinded by Steven Muse.**

**MOTION:** (Steven Muse/David Holtzman) Accept the ARC application as submitted for 13422 Fountain Club Drive.

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

5. ARC Application for 13300 Rising Sun Lane

The homeowner is requesting installation of a fence around the backyard of the property. The Board noted that there are only two (2) of the required four (4) signatures on the application and the fence is not the type of fence allowed in the community.

**MOTION:** (Steven Muse/Vernard McBeth) Deny the application of 13300 Rising Sun Lane for installation of a fence as the application does not have the required four (4) signatures and it is the wrong type of fence.

**Vote:** Motion Passed - Unanimous

6. ARC Application for 18622 Little Star Lane

The homeowner is requesting a ground level **deck patio** on poured concrete footers. The deck material will be pressure treated wood.

Mr. Holtzman stated that not all the homeowners who signed the application are adjacent or in view of the change. Management stated that there are no houses behind the section of Little Star Lane.

**MOTION:** (Vernard McBeth/Daryl McFadden) Accept the ARC Application for 18622 Little Star Lane for the ground level **deck patio**.

Frank Walsh mentioned that the application does not state the color of the decking. Vernard McBeth stated that the application stated it is 10' pressure treated wood.

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

7. Correspondence from 13322 Rising Sun Lane

Management received a letter from the homeowner of 13322 Rising Sun Lane expressing concerns about a tree on Association property next to the home. The tree has become quite large and the roots could be causing damage to the foundation and may be extending under the air conditioning unit. Management stated **that** an arborist has been requested to look at the root system of the tree and they will provide a report as they are to the Board. Vernard McBeth inquired how much it costs to remove a tree. Craig Wilson stated that removal of a tree costs anywhere from \$1,200.00 to \$1,500.00. If the roots are under the air conditioning unit, the unit may need to be removed to take care of the roots under it.

**MOTION:** (Vernard McBeth/Nicolm Mahabir) Accept the solution that the arborist offer, not to exceed \$2,000.00.

The Board asked if there were any other solutions besides removing the tree. Management responded that another option might be to prune the roots.

Frank Walsh and David Holtzman requested that **the** a decision not be made until the report has been received from the arborist.

homeowner wants a solution as soon as possible.

David Holtzman noted that the arborist will offer a solution at a given cost, but may also offer other options. Such options can be discussed by the Board, and then an approach chosen.

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

8. Replacement of Diving Board

RSV Pools has submitted a proposal for replacement of the existing diving board for \$2,860.00.

**MOTION:** (David Holtzman/Steven Muse) Accept the proposal from RSV Pools to replace the existing cracked diving board for \$2,860.00.

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

9. Pool Issues

David Holtzman stated that in previous years the Board have had a meeting with the pool contractor before the pool season. As this is the last Board meeting before the pool opens, the contractor will not be coming to talk with the Board. Mr. Holtzman inquired how the preparation for the upcoming pool season is going. Management responded that the repairs went well, and the inspection has been done. The only remaining issue is to have the fountains operational and tested. Management keeps checking on this matter.

Mr. Holtzman inquired about staffing for the summer. Management replied that the pool manager has been hired, and Management has spoken with her.

Management stated that in mid-April a pool leak occurred as one of the hoses burst while filling the pool. Management contacted Millennium Pools, and Management was able to shut off the water. The cost for Management's time and the cost of the water ~~to turn off the water~~ has been charged to Millennium Pools.

10. Pool Passes for Group Homes' Staff

Management has received a request for pool passes for staff member of St. Luke's house which is a community support service that owns two (2) houses in Fountain Hills. The staff members accompany the residents to the pool. There will also be a request from another group home in the community for pool passes for their staff members also.

**MOTION:** (Steven Muse/Brandon Dart) Approve pool passes for the staff of St. Luke's House and the other community group home for the summer 2010 season.

**Vote:** Motion Passed - Unanimous

**D. HOMEOWNERS FORUM**

1. Sue Adamkiewicz, 13322 Rising Sun Lane, was present to follow through with her concerns regarding a ~~the request for removal of the~~ large tree near her home. Ms.

Adamkiewicz also inquired when the sand will be removed from the community's streets.

Management responded that the sand was scheduled to be removed on Tuesday, May 11, 2010. Ms. Adamkiewicz also mentioned a commercial vehicle has been parking on Little Star Lane. The vehicle is parking in the driveway now. The vehicle cannot be pulled from the driveway. The owner can be fined, but Management did not have the address of the owner of the vehicle. The address where the truck is parked is ~~18604~~ ~~18602~~ Little Star Lane.

A commercial truck was also parked on Lake Geneva Way. The truck should not have been towed as no warning was first placed on the vehicle and there are no signs stating that commercial vehicles or trucks cannot park on the street. After ten (10) days, a fine can be placed.

#### **E. UNFINISHED BUSINESS**

##### **1. Street Sweeping**

Frank Walsh mentioned that the street sweeping contract has not been approved.

**MOTION:** (David Holtzman/Steven Muse) Accept the proposal from McFall & Berry for street sweeping on Fountain Hills' property for \$4,890.00.

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

#### **F. NEW BUSINESS**

##### **1. Social Committee**

Siu Poon and Sue Adamkiewicz will serve as the co-chairs of the Social Committee. Nicolm Mahabir mentioned that he and the social committee request funds to have another summer picnic for the community calling it the "Fountain Hills Festival." He mentioned making this a larger activity than last year by inviting the Fire Department, the Police Department, having a health clinic, having antique classic cars, and also activities and games for the kids. The budget allows for \$2,600.00 for social events. The picnic is tentatively planned for the 30<sup>th</sup> of July so there will be money in the budget for the party if the budget is approved.

##### **2. Ad Hoc Committee**

Nicolm Mahabir mentioned forming an ad hoc committee to discuss the relationship between the Condominium and the HOA, along with the Condominium's relationship to the Board. This committee would have one (1) member from each section of Fountain Hills - single family homes, town homes and the Condominium.

David Holtzman requested that this item be tabled.

Mr. Mahabir stated that the ad hoc committee would study this relationship for thirty (30) to sixty (60) days and report back to the Board.

Mr. McBeth stated that there is an inherent conflict of issues to serving on both the Board of the Condominium and the HOA. A Condominium homeowner can serve on the HOA Board, but should not serve on both the Condominium Board and the HOA

Fountain Hills Community Association  
Board of Directors Meeting  
May 6, 2010

matter of whose interest the Board member is taking. Mr. McBeth stated that an attorney should be consulted or the By-Laws amended. Management suggested that the Board could invite legal counsel to attend the next meeting and discuss this issue in Executive Session. Management noted that the legal counsel for the HOA is not the legal counsel as for the Condominium.

Mr. Holtzman stated that the By-Laws specifically speak to these issues. Article 10 states that as long a member of the community has an interest in the Association as a homeowner, the homeowner can be a member of the Board. He also noted that to amend the By-Laws it takes two-thirds (2/3) vote of members. Mr. Holtzman stated that Board members are volunteers and those who choose to serve on both Boards should be commended.

Frank Walsh stated that in his time on both Board of Directors; the Condominium and the HOA, no one has ever been accused of having a conflict of interest between the Condominium and the HOA until now.

The Board members of the Condominium took affront that the HOA Board Members would question their integrity to serve the community fairly by being on both Boards of Directors.

3. Enforcement Committee Name Change

Steven Muse requested that Management put on the agenda discussion to change the name of the Enforcement Committee to the Rules and Regulations Compliance Committee. Craig Wilson stated that in Article 8, Section 14 of the By-Laws that the covenants state that the committee that enforces the rules and regulations in the community be called the Enforcement Committee.

**G. ADJOURNMENT**

**MOTION:** (Vernard McBeth/Daryl McFadden) Adjourn the Board Meeting at 9:10 p.m.

**Vote:** Motion Passed by acclamation