

CREEK'S EDGE AT STONY POINT TOWN HOMES HOA

Special Board of Directors Meeting – Minutes

Clubhouse
9400 Creek's Crossing Blvd
Wednesday, November 9, 2022
1:00pm

President – Larry Dahn (2024)
Vice President – Anne Nelson Morck (2023)
Secretary – Melissa Eager (2023)
Treasurer – Roseann Salasin (2024)
Director – Rob Tait (2022)

Minutes

I. CALL TO ORDER (President)

II. QUORUM STATUS (Secretary)

- Meeting, in attendance at Clubhouse: Larry Dahn - President; Anne Nelson Morck – Vice President; Rob Tait – Director; Roseann Salasin - Treasurer; Melissa Eager - Secretary; Dave Hering – Managing Agent; Cassie Craze - HOA attorney; Judy and Mark Beheshti - Homeowners; Pat Rollins – Homeowner; Karen Bennett - Homeowner; Debbie Markel – Covenants Committee Chair; Karin Scheiber – Homeowner; Tom Scott - Homeowner; Pat Mohr - Homeowner; Sharon Talarico and Debra Cohen - Homeowners; Betsy Kapsak - Homeowner; Josh Sessions - Homeowner; Tom Allen - Homeowner; Bob Camire - Homeowner; Rob Austin - Homeowner; Sara Cowherd - Homeowner; Rick and Sue Bream - AED Committee Chair and Homeowner; Paul Gilbo - Homeowner; Richard Kauffman - Homeowner; Mick and Lorraine Massell - Homeowners; Karin Schneider - Homeowner; Ellen Shinaberry - Homeowner; Deb Batterson - Homeowner; Lucy Ambroz - Homeowner; Dave and Jackie Bell - Homeowners; MaryBeth Matthews - Homeowner; Hugh and Debbie Cline - Homeowners; Susan Chandler - Homeowner; Mike McCabe - Electrical Committee Chair; Kim Smith - Homeowner; Lee Chaharyn - Homeowner; Joyce Wickham - Homeowner; Bill and Lisa Eby - Homeowners; Joe Perszyk - Homeowner.

III. REVIEW OF COMPLAINTS FROM JOSH SESSIONS (Summarized by Cassie Craze, Attorney)

The Board has received copies of the complaints, there are a few copies being circulated and if you want a hard copy, you can request one from Community Partners.

In summary, there were 2 complaints but involved 3 issues:

- Landscaping - filed on October 19, 2022 by Josh Sessions - addressed failure to maintain an infested crepe myrtle on the property of 9485 CSC, trespassing by CE volunteers to remove dead crepe myrtle, and replacement of dead crepe myrtle with a cherry tree without proper agreement from homeowner. This complaint also includes a negative encounter with LC member in relation to that replacement. Per complaint, Board and/or LC doesn't have authority to modify landscaping.
- Improper Meetings - filed on October 19, 2022 by Josh Sessions - dealt with an undocumented appointment of 2 directors in 2021, board orientation meeting in 2021 that wasn't noticed or open to members and a September 2022 meeting that

was cancelled and rescheduled to a work session in October 2022 with improper notice. These complaints refers back to Code of Virginia 55.1 A and B.

- Pesticide notices - included in the same complaint of Improper Meetings and refers back to Code of Virginia 55.1 - 1818.
- The Board will meet in executive session with Cassie to go through the legality of these complaints, a decision will be made in executive session, that decision will be summarized in open session and a determination letter will be sent to Josh Sessions within 7 days of this meeting.

IV. OWNER COMMENT PERIOD* -- limited to topic of Special Meeting

- Bob Camire - in complaint, there is reference to original landscaping scheme. Can someone describe what original landscaping means? Cassie - board will address in executive session.
- Michael Massell - what does each homeowner own and what does the HOA own? Cassie - to be clear, this isn't a Q and A session. But for a house lot, the homeowner owns the house and the lot. But it is a strange set up because homeowners own parts of lots that the HOA maintains which causes confusion.
- Sharon Talarico - in reading the complaint, there are statements that are inaccurate; I remember one way and Josh remembers another way, it is my word against your word. Specifically in reference to the crepe myrtle tree request not being "in process" per Josh Sessions. It was in process per Sharon, she was often going to the tree and pinching the branches to see if it still had life in it. As a means of background, we do use volunteers for a number of reasons - they typically save time and money and create a sense of camaraderie. After the tree was clearly dead and needed to be removed, the best way to do such was by our volunteer crew and was talked about with Josh. Per Josh, there were conversations between he and Sharon but the Association knowingly neglected to fulfill its obligation to provide upkeep to his lot. The original notification of a problem with the crepe myrtle was September 2021. It wasn't removed until August 30, 2022.
- Kim Smith - prepared statement.
Please note we have read the complaints from Josh Sessions and Peter Partee's professional assessment of the complaints, and his personal concerns. We appreciate Mr. Partee's volunteering his legal expertise for the HOA and we agree with his analysis that the board has mishandled important duties. We believe the requested corrective actions are reasonable and necessary.
Being somewhat new to the neighborhood, it is disappointing to hear the personal experiences of neighbors who have felt dis-respected and bullied over simple landscaping issues. We understand why they remain silent and anonymous.
We also have experienced disappointment with responses to questions about some of the practices of the landscapers. For example, when we asked to see the labels on the chemicals sprayed in our yard, we were told it would be impossible to find out because it could change at any time based on the cost to the landscapers. We've since decided not to express our ideas about ways for the landscapers to improve their service to our community.
We are disheartened by the overall response to Mr. Sessions' complaints. To begin with, it seems very disrespectful and suspect to schedule this special meeting in the middle of the workday with less than a week's notice. A large percentage of our community members work during the day and thus have been automatically excluded from showing our support for Josh, hearing all sides of the story, and voicing our opinions—after hearing all of the facts. This could be overlooked had we at least been provided a virtual link. However, our request for this was turned down without any rationale provided. If all routine meetings have had a virtual option, it

seems the HOA and Community Partners of Virginia would offer the same option for a topic important enough to warrant a special meeting.

Like Josh, Peter, and their spouses, we have begun to question our desire to retire in the Creek's Edge neighborhood. (We cherish the friendships we have developed here and appreciate the opportunity to become acquainted with so many other good people.) We respect and thank Josh and Peter for bringing these issues to light. We thank the many members of this community who volunteer. We hope everyone can set aside their emotions and wisely analyze the facts. Instead of reacting to problems, let us make apologies where warranted, and then, work together to achieve resolutions.

- Tom Scott - respectfully, disagrees and rejects prior statement and wholeheartedly supports the Board. He is amazed and finds it ridiculous to be here to discuss a crepe myrtle tree.
- Debbie Cline - agrees with Tom Scott.
- Lisa Eby - confused about this meeting and the usefulness of us being here. It is sad that we have to be here and either support the Board or support Josh. We should be able to give a complaint and determine whether it has merit or not. Lisa rejects picking a side - we all want to live in a community where property values are held and enhanced. One of the largest problems of this community that needs to be looked at by the Board is using too many volunteers versus hiring professional help. When there is a complaint or problem, it seems like a personal attack on an individual when a volunteer does the work instead of a professional.
- Pat Rollins - clarification on how many attorneys are representing the HOA. Per Dave, the only attorney representing the HOA is Cassie Craze.
- Jackie and David Bell - agree with Lisa Eby's statement in regards to volunteers versus professional help. There is a place for volunteers but the problem that can arise and has arisen in using volunteers is that the person doing the work can take it as a personal attack if something isn't done properly. If a volunteer is on your property and gets injured, it is your insurance that will be paying for it and will be on your homeowner's claim. If that same work was being done by a professional, the homeowner is not liable. Other communities do not use volunteers. It is a community not a commune - we should use professionals.
- Hugh Cline - please provide more detail on tree complaint. Per Cassie - there was a crepe myrtle that was diseased at 9485 CSC. Per homeowner, it took longer for this issue to be addressed. Ultimately, the homeowner cut off limbs and then volunteers removed crepe myrtle. It was then replaced with a different tree in a different location which homeowner rejected. Because of those actions, the homeowner filed a complaint with specific corrective actions - resignation of LC Chair, suspend LC activities pending review of activities, a written apology from the 4 volunteers who removed tree and trespassed onto property, resignation of Larry Dahn as President and no alterations to landscaping plan until approved by homeowner. Per Hugh, it is not the homeowners prerogative for them to decide whether or not to use professionals or volunteers.
- Betsy Kapsak - wonder why were we invited to give comments when we didn't have all the information prior to this meeting. Would have been more prepared if could have seen complaints beforehand. We don't want to be divided. Cassie - this is a process for the Board to make a decision, a decision that will be based on legalities. There are no expectations for homeowners to comment but input is helpful.
- Mark Beheshti - this whole topic seems to be in regards to due process. If Mr. Sessions wants professionals doing work, that's fine; however, volunteers are always

welcome on my property. I attend most meetings, and quite frankly, hiring professionals is costly. Also, someone volunteering doesn't mean they are not qualified. Board has afforded him due process and doesn't see any disrespect by the Board to Josh or his partner. It is an elected Board - you can't just ask for removal. My ask is for due process. Personally, this Board has afforded us due process.

- Mike McCabe - has looked over the complaints - has a hard time believing this is just about a tree. It is ridiculous. Volunteers are a great thing. If anyone wants to know his qualifications, please see him. We are lucky to live here, the Board has done a great job.
- Tom Scott - would like to thank the parties or individual that forwarded Pat Mohr's email to Josh. Josh's response revealed the person he is - Tom was personally offended by Josh's email and thinks an apology is owed to Pat. Cassie - let's keep comments directed to the Board. Josh - please follow Robert's rule of order. Tom addressed the same comments above to the Board.
- Debbie Cohen - we need to be civil and respectful to everyone.
- Hugh Cline - belongs to another HOA in which all work is done by professionals - HOA dues are currently \$800/month, but will be increasing to \$1000/mo. Volunteers under correct supervision are a great idea.
- Rick Bream - not a landscaping expert, but things in landscaping change, diseases can arise - whether it be volunteers or professionals, these changes need to be recognized and perhaps what was originally planted needs to be reevaluated. We have lived in this community for 4 years, and have attended almost all Board meetings - 90% of the faces here today I have never seen at a Board meeting. If people are interested, attend meetings. I am impressed by this current Board, the prior Board didn't do things by consensus. Give input and when you attend meetings, you will see how this Board actually functions. To say this Board is political and exerts power is foreign - these are my neighbors and they are invested in this community. Don't see other people putting in the time like this Board. If you are going to complain, show up at meetings and become involved! And to be clear, we are getting a lot of bang for our buck, there are some that are on a fixed income.
- Susan Chandler - lived here the longest and have seen several different Boards. This current Board functions very well and has my support and appreciation.
- Rob Austin - new to community, but has have been part of other HOAs. For a homeowner to request the need to decapitate the Board and "fire" the LC Chair seems way overkill for a small issue. Furthermore, if the Board decides to decapitate the Board, who else is ever going to want to serve on the Board? Interrupted by Josh Sessions.
- Josh Sessions - I did not ask for anyone's decapitation. Let's discuss and decide. Didn't ask anyone to resign from the Board. Agrees, that he (Rob A.) can't understand the importance of this issue to me. Per Josh, we all make mistakes and we can fix them, I am not assaulting anyone's character. If things are wrong, they need to be addressed and there is a process to do such. Cassie - Josh requested the resignation of Larry Dahn as President but to finish his term as director and the immediate resignation or removal of Sharon Benedict from LC and the consideration of continued existence of LC.
- Tom Scott - didn't the prior speaker (Josh Sessions) claim he didn't ask for those statements?

- Bill Eby - seems the issue is whether or not the Board was following state law, local law and our own by-laws. If they were, that's one thing. If not, that is what needs to be addressed. Doesn't necessarily have to be just the issue of this tree.
- Sharon Talarico - unclear as to what is our property and what is HOA property. In the future, there needs to be more clarity. Our community does have an easement clause - volunteers or professionals are able to come on property to do work. Moving forward, agrees there needs to be clearer language or a form that would prevent "he said, she said" issues. If there is a new landscaping decision to a homeowner's property, there should be some agreement in writing. We have valued committee members and valued homeowners and can come up with a better procedure.
- Sharon Benedict statement read by Melissa Eager and Anne Nelson Morck.
 In late Spring 2022, I had an impromptu conversation with Josh Sessions (JS) regarding the state of his crepe myrtle (CM) at the NE corner of 9485 Creek Summit Circle. We discussed the probability of the tree's viability and potential options should the tree not survive, which looked likely despite some small new growth. The options discussed included replacement with an ornamental tree in the same spot as the CM or planting a new larger tree in the area between 9481 and 9485. JS indicated that he was open to either option. I requested that JS trim down his CM to facilitate its removal, if necessary, and indicated that any replacement would have to wait until Fall 2022, as it was inadvisable to plant a new tree in the summer. The CM at 9485 eventually died and JS complied and trimmed the CM for removal. During that same conversation in Spring 2022, I informed JS that I would discuss the tree replacement options with his neighbor at 9481, which I did after a Summer 2022 Board meeting. The neighbor indicated that he preferred planting a larger tree between the two houses. Since JS had indicated that he had no objection to planting a single tree and with the neighbor's preference known, the LC consulted a landscape designer at Manchester Gardening and the owner of Team US Arborist, LLC (a licensed tree service) for recommendations for a new tree, taking into consideration the exposure, soil content and availability of irrigation for that area. I consulted with Rob Tait, neighbor and head of the CE volunteer crew, to determine if the crew could safely remove the dead CM at 9481. Rob indicated that he believed his crew could do the work. He arranged for a volunteer to bring his truck in case it was needed to pull out the CM. I arranged for Miss Utility to mark the area and asked Dave Hering to notify the homeowner that the volunteers would remove the tree at 8am on August 30, 2022. Four volunteers, all neighbors (Rob Tait, Tom Allen, Larry Dahn and Dallas Benedict), removed the tree by hand in 15 minutes, backfilled the hole with dirt, spread mulch in the area and disposed of the CM. On October 15, 2022, I purchased a replacement tree from Cross Creek Nursery (15' Yoshino Cherry) and requested that Team US Arborist plant the tree as soon as their schedule would permit.
 On October 16, 2022, at approximately 10am, I placed two flags between 9481-9485 as markers for Team US Arborist, in anticipation of having the tree planted sometime in the next ten days, time and location TBD. Keith Bell (KB) was on the front porch of 9485 observing. I informed him that a new tree was coming soon and showed him a picture of the tree we had chosen. I recall that his only comment was, "Okay". Later in the morning, when I was walking to my car and away from the group who was participating in the Clubhouse cleanup, JS approached me from behind. He called my name and when I turned around he asked, "Are you planting a tree at my house?". I replied, "yes" and he immediately responded in a testy tone, "No, you're not". I repeated that we were planning to plant the tree and he just kept repeating, "No, you're not". His tone was belligerent and sarcastic. My impression was that he was spoiling for a fight and trying to bully and intimidate me. At that point, I determined that it was unwise to have this discussion with JS without a witness present and began walking back toward my vehicle. I repeatedly stated that JS should take his concerns to Dave Hering at Community Partners. JS followed me

for a short distance, shouting that he didn't need to talk with Dave H. I did not re-engage, got into my car and left the area.

- LC statement read by Melissa Eager.
The LC, made up of volunteers from within the community, has no statement to make at this time on the matters before the Board. We do however, intend to continue to support the community in the same manner as we have since our inception.

V. EXECUTIVE SESSION (to meet with counsel)

- Larry Dahn made a motion to move into Executive Session to review homeowner complaints and to consult with legal counsel; Melissa Eager seconded the motion; the motion passed unanimously.

VI. RETURN TO OPEN SESSION & DECISIONS REGARDING COMPLAINTS

- At 3:15 pm, Melissa Eager made a motion to reconvene to Open Session; Anne Nelson Morck seconded the motion; the motion passed unanimously.
- Determination by the Board, summarized by Cassie Craze is as follows:
- Complaint 1 (Meetings and Pesticide applications) -
 - The Board found that the 2021 appointment of two new directors to the Board was done by unanimous consent via email outside of a meeting and was ratified at the January 18, 2021 Board meeting and is reflected in the minutes of that meeting.
 - The Board acknowledges training/orientations were held in January 2021 without proper notice to the membership. This was based on representations by the managing agent at the time that these training/review sessions did not need to be noticed to or open to the members because no decisions were being made and nothing was voted upon. At one of these training sessions, the Board was informed of the notice and open meeting requirements. All meetings, including work sessions and training sessions/orientations, since January 2021 have been properly noticed and open to the members.
 - The September 14, 2022 meeting was noticed and open to members. It was announced at the August 24, 2022 Board meeting, posted on the Association's website and calendar, and listed in the community newsletter.
 - The Board is not aware of any pesticide applications without proper notice and you do not provide any dates, locations, or other details to allow the Board to determine if a violation has occurred. The Board would need more detailed information regarding dates and locations to be able to investigate this with its landscaping contractor. Signs providing notice of pesticide applications are posted in the community by the Association's landscaping contractor at least 48 hours before pesticides are used. If there is a particular instance of pesticides being used without proper notice, please report that to the Association's managing agent promptly, noting the date and location, so that it can be addressed with the appropriate contractor.
 - The Board declines to send a communication to the entire Membership regarding this issue since it occurred nearly two years ago, was inadvertent, and was corrected once the Board was informed of the notice and open meeting requirements and that those apply even to orientations and training

sessions. Meetings have been properly noticed and open to the Members since that time.

- As noted in the complaint, the Board already participates in periodic training sessions with its attorney and other professional advisors.
 - Minutes are available for inspection and copying by any member in good standing by making a proper request. It is my understanding that there have been prior requests and a copy of these minutes have been provided. In addition, the minutes are posted on the Association's website once they have been approved by the Board.
 - There is no requirement in the common interest community laws that: (a) Board meetings be held after a particular time of day, (b) a virtual option be provided for meetings, or (c) the Board record meetings or make recordings available to the members.
 - There is no requirement in the common interest community laws that the Board provide more than one Member comment period during Board meetings.
 - Signage is posted by the Association's landscaping contractor at least 48 hours prior to pesticide use. The Board is not aware of any violations of this requirement, and you have not provided sufficient information to determine if a violation did occur on some occasion.
- Complaint 2 (crepe myrtle)
 - This complaint does not include allegations of violation of common interest community laws and regulations. Accordingly, it is not an appropriate subject for this complaint process. Note the language on the Association Complaint Form indicating that it is for complaints regarding an action, inaction, or decision of the Board that is "inconsistent with applicable laws and regulations." This complaint instead alleges violation of the Association's governing documents. However, the Board still reviewed the complaint and your requests and has made the following determinations regarding the "Corrective Actions Requested"
 - The Board denies your request that Sharon Benedict be removed or resign from the Landscaping Committee and any other committee on which she now serves.
 - The Board denies your requests to suspend activities of the Landscaping Committee and that a Membership vote be held regarding the continued existence of this Committee.
 - The Board declines your request for a written apology from the four community volunteers who entered onto your Lot to remove the dead crepe myrtle. There is an easement over the lots for that purpose.
 - The Board declines your request that Larry Dahn resign as President. He will also continue to serve on the Board of Directors.
 - The Association will continue to maintain original landscaping as is and will work with homeowner to put a replacement shrub in the location where the dead crepe myrtle was removed if a written agreement can be reached with the homeowner and Association in regards to type and size of shrub.

Anne Nelson Morck made the motion that Cassie Craze captured everything that was decided upon in Executive Session; Melissa Eager seconded the motion; the motion passed unanimously.

Cassie Craze will send certified mail, return receipt requested determination letter to Josh Sessions within 7 days after this meeting. If Mr. Sessions is unhappy with decision, he can file an appeal through the Office of the Common Interest Community Ombudsman ("Ombudsman") which will be detailed in that determination letter.

This determination letter as well as the complaints will be posted to the private portion of the community website which will require user name and password to review.

VII. ADJOURNMENT

- At 3:23 pm, Anne Nelson Morck made a motion to adjourn meeting; Rob Tait seconded the motion; the motion passed unanimously. The meeting adjourned at 3:24 pm.

Maintenance or service requests can be submitted at www.communitypartnersva.com or sent to Community Administrator Jessica Crump (378-5000 x232) – jcrump@communitypartnersva.com

**Residents are welcome to address the Board during the Owner Comment segment of the meeting. This segment is intended to provide members an opportunity to give input to the Board of Directors. The Board will take any input under advisement but may not respond immediately as they proceed with the planned business of the meeting. The Board reserves the right to limit this section of the meeting to a time they believe is appropriate. Please observe Robert's Rules of Order.*