

THE VIEWS OF ASHEVILLE HOME OWNERS ASSOCIATION
MINUTES OF MEETING
December 1, 2009

1. The meeting was called to order by Board President Richard Green at 7:04 PM
2. Roll was taken by sign-up and proof of notice was presented and accepted.

<u>Attendees:</u>	<u>Address @ Distant View Drive</u>
Beth Garrett	77
Toni Meador	84
Gerry & Margaret Stanley	86
David Hymer	88, 90
Richard & Judy Green	91
Joe Bonamarte & Jill Sagarin	93
Joe & Maria Warnicki	102
Holly Reynolds	106
Paul & Diane Summey	108
Mike and Nancy Osborne	110
Steve & Jo Betso	113
Leonard Greenbaum	119
Dan & Eva Steward	122, 124, 126

3. Minutes of the meeting of August 19, 2008, having been previously distributed for review, were accepted by unanimous vote.
4. The floor was opened for nominations for the Board of Directors. Richard Green, Gerry Stanley and Steve Betso were nominated and unanimously elected.
5. **Reports of Officers**

President Richard Green. Due to recent bear sightings members were reminded to be discriminating about feeding birds, and to consider not putting out trash cans the evening before scheduled pickup.

Treasurers Report (Attachment A)

- a. Neil Altman was not present, copies of the Treasurers Report were distributed for review.
- b. Expenditures to date for 2009 of \$11,326.73
 - Checking account balance as of 11/15/2009 was \$4,164.24.
 - Dues collected to date for 2009 are \$10,980.
 - Total annual income at the present dues level is \$11,600.
- c. Neil Altman, with his agreement, was appointed Treasurer for another year
- d. The Financial Report (attached) was approved by unanimous vote.
- e. **NOTE 1: One homeowner has commented that we did not approve a budget for CY 2010. This is true although we did approve a landscape budget (below). Since the landscape budget amounts to approximately 90 % of expenditures, and non-landscape expenses are relatively minor and generally fixed from year to year (tax preparation and insurance) the 2010 budget was in effect approved. Your forbearance is requested for this oversight. This will be remedied next year and a specific budget recommendation will be provided.**
- f. **NOTE 2: The same homeowner commented that there was no allocation for legal expenses in the event the homeowner chooses "to go to court" over the issue of road/driveway maintenance for Lots 122, 124 and 126. However, this would be an off budget expense covered by either HOA Reserves or through a special assessment on all lot owners.**

6. Reports of Committees

Landscape Committee – Chair, Joanne Betso

- a. Joanne discussed the Landscape Committee Report and Expenditures for 2009 (Attachment B). She noted we retained the maintenance landscaper from 2008, Indigenous Design.
- b. The question was asked during the Treasurer's report as to what "culvert cleaning" means. It means clearing of grass and volunteer trees from drainage swales and retention basins.
- c. The point was made that the Views as a whole is entering a phase where trees may begin to obstruct views and that this may require trimming and/or clearing.
- d. Joanne also has walked through the property with a horticulturist and identified invasive species that we should consider removing from the common areas. Specifically the Princess Trees.
- e. The landscape budget for 2010 was approved at a level equal to expenditures in 2009 of \$10,092.
- f. There was unanimous agreement with a statement by Nancy Osborne of appreciation for the Landscape Committee's work.

Architectural Review Committee – Chair, Richard Green

- a. Nothing to report

7. Unfinished Business

- a. The Stewards discussed their efforts to obtain 80 % approval in writing for transfer of HOA property on the ridge to allow them to enlarge their three lots thereby making them more desirable. They said two members voted no because they felt there should be a larger payment to the HOA. Other owners simply didn't vote (didn't return petition).
- b. A robust discussion revolved around whether or not a ~~no~~ **non**-vote should be counted as assent. It was pointed out that NC law required the 80% approval to be in writing from each homeowner.
- c. Also discussed was whether the HOA could change the 80% requirement to some lesser number. A motion was made and seconded to refer that issue to the HOA lawyer. The motion passed by unanimous vote.
- d. The question was asked: Who is our attorney and how was he selected? Richard responded that Steve Goldstein was our attorney and that Richard has used Mr. Goldstein for many years in his business and that Mr. Goldstein had drafted the articles of incorporation and the bylaws for the HOA in 2002.
- e. The Stewards latest offer consisted of 1) a cash payment to the HOA of \$1000; 2) a commitment to maintain the drive to the three lots and; 3) beautification of certain areas of the transferred property.
- f. Another robust discussion occurred over who exactly was responsible at the present time for maintenance of the drive servicing both the water tank and the three lots. The Stewards feel that the HOA is responsible since it is the access road to the water tank. The Board of Directors' position is that the road is the common driveway to the three lots on the ridge and that the Stewards are responsible, under the HOA covenants, for paving that driveway. While the road does serve as access to the water tank, it is sufficient for that purpose in an unpaved, minimally maintained condition. This particular issue remains at an impasse.
- g. **NOTE 4: Lengthy comments were provided. To avoid paraphrasing and possible misinterpretation the comments are included verbatim at the end of these minutes. Minor responses are included in bold.**

8. New Business

- h. The issue was raised about the use of a nominating committee to identify homeowners who may wish to stand for election and serve on the board of directors. **NOTE 5: The suggestion was approved by those present and Holly Reynolds agreed to serve as chair.**
- i. Richard informed everyone that he was attempting to establish contact with the City Engineer's office to correct the flow of water down Park Avenue from the Park Avenue cul-de-sac. This will present a hazard during sub-freezing weather.

Attachments

- A. Treasurers Report
- B. Landscape Committee Report

(Suggested) Correction to your item 6 (a) Unfinished Business:

The way you described what we offered was so personally biased that it makes it sound like our only purpose is to "enlarge their three lots thereby making them more desirable." This was your personal interpretation and not what was said. That fact that you left out in the minutes a major fact of what we did say, which is we did get another majority vote by property owners.

You highlighted the fact that two members voted "no" because they felt there should be a larger payment to the HOA. Actually, one of those people was you (i.e., Stanleys) and the other doesn't even live in the neighborhood. It indicates to us that you are trying to push your own personal agenda to get more money from us to pay the HOA.

Your item 6 (e) Unfinished Business:

It was very biased that you said "The Stewards latest unsuccessful (**changed in minutes**) offer consisted of". I don't think getting two majority votes is unsuccessful and neither did many of the people who spoke up at the meeting. What makes any proposal unsuccessful is the high threshold standard of 80% by the State's Chapter 47F. Most HOA's could not get that much involvement by 80% of the people. But, your comments show more of the intention to deface us poorly.

Then, you encapsulate our offer into 3 points that is negatively skewed to your personal views:

- 1) A "nominal" amount for the property of \$1000;
- 2) A commitment to maintain the drive to the three lots and
- 3) Beautification of certain areas of the transferred property

First, \$1000 is not "nominal." (**changed in minutes with some rephrasing**) It is more than zero, which is what it originally offered to us by Richard.

You failed to mention that the offer removes HOA liability that is currently disputed in the amount of \$3000 per year that we have spent for maintaining common element property.

You failed to mention that it improves the area by us spending in excess of \$70,000 by putting in a road sooner than later and clearing out the weeds and jungle that we and other neighbors have to look at and which destroys our lawns.

Correction to your item 6 (f)

You incorrectly stated that we thought the HOA was responsible “since it is the access road to the water tank”. That is a minor reason. There are many reasons. If you are going to mention one you need to mention all so as to not change the facts. The main reason is that the land belongs to the HOA, but you did not state that. It cannot be compared with a driveway because of its nature: the City’s easement to the water tower, the length of it, and the fact that it is not a private driveway since it belongs to the HOA and anyone has the right to walk up there regularly and they do. All these reasons make it unlike the other “access drives.” Not only does my first attorney letter to you state his legal opinion, but I have a second one as well.

You mention the Board’s position on paving the road. We agree with you and this never was an area of contention for us. It is not an impasse like your minutes incorrectly state. **WE ARE NOT ASKING THE HOA TO PAVE THE ROAD.** We know we have to do that eventually after we finish building out the other two lots. When Richard sold us the lots we knew that and have NEVER disputed that fact. **WE ARE ASKING THE HOA TO MAINTAIN THE ROAD SO WE DON’T HAVE TO KEEP SPENDING \$3000 A YEAR TO MAINTAIN IT.** We did not bargain for that when we bought the lots. We refused the road or the land around it because we did not want to maintain it. Since the HOA has not maintained it, we have had no other choice but to do it or not get up to the house. This is above and beyond the \$1200 a year we spend in HOA dues. How would you like to spend \$1400 on dues for your lot each year? That is what we are doing in essence and it is unfair. The HOA either spend the money to maintain the road or deed it to us with the surrounding area that they cannot afford to maintain as well.

Sincerely,

Eva and Dan Steward