

**THE VIEWS OF ASHEVILLE HOME OWNERS ASSOCIATION  
MINUTES OF MEETING  
December 1, 2010**

1. The meeting was called to order by Board President Richard Green at 7:08 PM
2. Roll was taken by signup and proof of notice was presented and accepted.

Fifteen Lots were represented in person.

<u>Attendees:</u>	<u>Address @ Distant View Drive</u>
Linda Jorgensen	76
Neil and Diane Altman	78
Gerry & Margaret Stanley	86
Richard & Judy Green	91
Joe Bonamarte & Jill Sagarin	93
Joe & Maria Warnicki	102
Bill & Holly Reynolds	106
Paul & Diane Summey	108
Nancy Osborne	110
Greg Korman for Margaret Lancaster	111
Al Patel	117
Leonard & Bobbie Greenbaum	119
Dan & Eva Steward	122, 124, 126

For issues other than Board of Directors voting.

There were seven lots represented by proxies.

Skip & Beth Garrett	77
Jane Robison	98, 100
Linda Landwirth	104
Margaret Lancaster	111
Steve & Joanne Betso	113
Ernie & Pat Bott	115

Unfortunately, one proxy was judged invalid because it was submitted without specific declaration of a proxy holder. Such a format was not specified as acceptable prior to the meeting.

Jay & Tess McDermott	97
----------------------	----

Total of **21** Lots represented either in person or by proxy. A quorum is 16.

3. Minutes of the meeting of December 1, 2009, having been previously distributed for review, were accepted by unanimous vote. Changes to previous draft were noted: Holly Reynolds as nominating committee chair, Eva Steward's comments inserted verbatim in several places. Joe Bonamarte moved the minutes be approved as distributed, seconded by Linda Jorgensen. Approved by voice vote.
4. The floor was opened for nominations for the Board of Directors. Already on the slate were Richard Green, Margaret Lancaster, Bill Reynolds, Gerry Stanley and Dan Steward. Joe Bonamarte nominated himself from the floor.

- Discussion on increasing the board membership from three to between five to seven inclusive. This would require a special called meeting of the homeowners since it was not announced on the agenda for this meeting.
- Eva Steward moved that the name and address be included on each cast ballot. This was seconded by Holly Reynolds and approved by voice vote.
- Comment that no proxies include Joe Bonamarte's name. There is no known solution for this. It is similar to the problem that affects early voting in any election, with possible changes in information that could cause an early voter to change their vote if possible.
- Written ballots were distributed
- Upon completion of voting Gerry Stanley and Holly Reynolds retired to a separate room to count votes. Upon return they reported that Bill Reynolds and Richard Green were elected to the board and there was a tie for the third position between Margaret Lancaster and Gerry Stanley. Holly moved that the third position be filled via a runoff election between Margaret and Gerry via e-mail. Joe Bonamarte seconded and the motion was approved by voice vote.

## 5. Reports of Officers

### **President Richard Green.**

1. 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.
2. Richard read Steve Betso's letter of resignation from the board, effective November 23, 2010.
3. Richard mentioned that we would be discussing a draft policy on view preservation and tree cutting under New Business.
4. Joanne Betso has resigned from the Landscape Committee.

**Treasurers Report** (Attachment A) Copies of the Treasurers Report were distributed for review via e-mail prior to the meeting. Comments on the Treasurers Report were:

1. Richard pointed out that the report was for 10-1/2 months
2. Bill and Holly Reynolds moved to accept the report. Seconded by Paul Summey
3. Eva Steward requested to see a detailed report of expenditures. Neil explained that no computer program is used so that she can ask Gerry, who has copies of all invoices for the year, to see the details. She is particularly interested in landscape bills. The bank statements go to Richard and Neil, checks are signed by two people (Neil and Gerry).
4. Neil is resigning as Assistant Treasurer effective on the seating of the new board.
5. How was landscaping money spent? Annual expenses were about \$7800. Per Treasurers report \$3000 was for clearing storm water control and retention channels and basins. About \$3000 for Grounds Maintenance and a total of \$600 for a knee wall across from 78 to control erosion in the landscaped area.
6. Questions from Dan and Eva Steward as to whether the city had been clearing the basins (No) and about the purpose of the knee wall (see above). Holly thought it was supposed to be about \$300, but Nancy and Diane, the two remaining members of the Landscape Committee, understood that no dollar amount had been specified to the committee. Richard stated that it had come before the board and it had been approved as within budget.
7. An extended discussion on approval of new projects resulted, as to if a project is not in the budget who approves it? Holly felt that it should go from the Landscape Committee to the board for approval.

## 6. Reports of Committees

### Landscape Committee – Chair, Vacant

1. Neil stated that he was paying for pruning four crape myrtles on common area, with concern that this might not be permitted under a new tree cutting/view preservation policy. Bill Reynolds commented that in his opinion the common areas had or were being abused through the use of pesticides, spraying and feeding deer. He stated that the four homes taking care of grass and trees at their own expense need approval by the board, which has final say. They should send an e-mail to the board and if approved they can continue taking care of the grass and trees at their expense.
2. Guidelines are required to let members know what the policy is.

### Architectural Review Committee – Chair, Richard Green - Nothing to report

## 7. Unfinished Business

### Common Area Land Transfer

*It was not possible to ascertain accurately from notes taken the statements and positions of the HOA and the Stewards in this disagreement. Below is a general listing of such disagreements, but it may be incomplete.*

Richard explained that in March of this year the Steward's lawyer, Doug Wilson, found case law that allowed transfer of common area property under a 51% simple majority vote rather than the 80% that the Steward's had been attempting to meet based on a simple reading of the statute. Although the board's lawyer had previously supported the 80% limit, he agreed with the new interpretation.

Subsequent disagreements were related to 1) the board guaranteeing that no signatures in the petition would be withdrawn; 2) language in the contract affirming that the HOA owed the Steward's thousands of dollars for maintenance of the drive to the three lots and to the water tank. Even though this was supposed to be no cost to the HOA, it has already spent ~\$400 on legal support. All suggestions for changes in the contract were made to protect the HOA and its members. In the past Richard had suggested an escrow agreement on the sale but that had not been accepted by the Stewards.

Eva Steward stated they agree to a lien on their home to ensure the drive is paved. The statement on maintenance costs had been put into the contract by their attorney to protect the HOA from the Steward's asking the HOA to reimburse them for expenses relating to maintenance after the transfer of land. Eva agreed to remove the statement from the contract. Bill Reynolds suggested that given this misunderstanding, the board should forward the current contract to the HOA attorney as soon as possible for review. Stewards have had to pay for two lawyers. She does not trust the board. They will have to pay \$50,000 to pave the drive.

Joe Bonamarte offered to pay the necessary \$600 for an escrow agreement to get this resolved; Bill Reynolds offered to pay half. However, the parties have already discussed a lien rather than an escrow agreement. Joe suggested that the land be sold as is with the Stewards assuming all expenses going forward, if board lawyer agrees. Current contract appears good to go if section (c) is changed.

Jill made motion that the new board should complete agreement with the Stewards within 30 days of being seated. Eva seconded the motion which then passed on a voice vote.

## 6. New Business

**1. 2011 Budget:** (Attachment \_\_) The budget was distributed via e-mail. Jill raised the point that there was no budget line for beautification. Where would money come from for such work? Answer: From Reserves. Bill Reynolds recommended approval as presented. Joe seconded. Approved

**2. 2011 Assessment:** Recommendation to leave unchanged (\$400/yr) was approved

**3. View Preservation/Tree Cutting Policy:** (Attachment \_\_) A Policy Development Draft was presented: Questions were raised about:

- a) Include concerns of adjacent homeowners;
- b) Consider replacement of removed trees with bushes or low maturity height trees;
- c) In case of disagreement between homeowners, the BoD decides;
- d) Problem with precedence being given to preservation of view;
- e) Definition of size of "mature trees" was questioned (6") as pertaining to trees with multiple trunks.
- f) Bylaws apply to Lots

The board will consider all of the above in developing a second draft for distribution to all homeowners.

### **4. Required Minutes for Official Meetings of the Board of Directors or of any Official Committee.**

The following policy was submitted to the membership and approved

"Minutes of official meetings not attended by a quorum of homeowners, of the Board of Directors or of any official committee are to be distributed to the homeowners preferably within 48 hours or at **most** [See note below] five days, of the completion of the meeting and irrevocable commitments for HOA expenditures and/or services cannot be made until such minutes have been in the possession of the homeowners for at least 3 business days. An emergency can be declared by a unanimous vote of the Board of Directors for earlier funds distribution but there is no waiver for the required distribution of the meeting minutes. Absent such minutes, there was no official meeting & there can be NO actions taken as a result."

*Note: The proposal stated "... within 48 hours or at **least** five days. ...: This language (**least**) was approved, but **most** has been inserted to reflect the clear intention of the requirement.*

**5. E-mail voting policy:** Holly Reynolds made a suggestion that the new board discuss and establish an e-mail voting system to be implemented before next year's election.

Attachments