

**VILLAGE WALK SOUTH OF VERO BEACH
HOMEOWNERS ASSOCIATION, INC.**

**BOARD OF DIRECTORS MEETING
APRIL 7, 2009**

1. CALL TO ORDER

Robert McKinley, President, chaired the meeting. The meeting was called to order at 6:02 PM.

The following directors were in attendance:

Hank Schulte
Sandy Fontana
Tom Collins
Bob McKinley
Barb Conits
Mike Hanner

Deb Coburn, Property Manager, was also in attendance.

Bob McKinley declared that a quorum was present and announced that this would be a regular monthly meeting.

Bob McKinley stated that he was amiss in not recognizing Steve Guest, the past Secretary of the Board, for all his accomplishments and help to the community. He asked that homeowners let him know how much he was appreciated. Steve Guest received a major round of applause.

2. APPROVAL OF MINUTES:

Motion: to approve the March 17, 2009 minutes – Sandy Fontana, seconded by Tom Collins.

Motion: passed unanimously.

Tom announced that copies of the minutes are available in the clubhouse. He mentioned that a bulletin board has been purchased and a copy of the current minutes will be posted on this board. Bob stated that the minutes would be a part of the permanent record

3. OWNER'S COMMENTS AND QUESTIONS

Michelle Jacobus (6th Manor): Unique situation on our street involves parking. We have renters on our street that have 4-5 cars for one unit. They park in any empty driveway. They also had a party where 12-15 cars blocked 6th manor, and blocked 5 driveways. If there had been an emergency, no one would have been able to egress. She proposes that, instead of Debbie having to constantly call the owner, we create a fine

system.. Bob McKinley stated that someone circulated the 9/19/06 minutes, where the previous board discussed unauthorized parking circumstances. Today, our protection of the owners must come from towing the offending vehicles.

Debbie Coburn: Previously, Mr. Kohlmann used stickers, which were placed on the windshield of violating parkers. These stickers included the date, time and vehicle tag on the back. This prevents them from saying they were never notified. Florida law requires that they be warned once. She will be happy to start the towing again, and will provide books to anyone who wants to take on this job.

Sue Jordan: When Eric Kohlmann was here, the matter was under control. Now that he's gone, the problem is multiplying. There are four people who are authorized to call the tow company. The sticker is quicker and more effective than an email. Debbie Coburn stated that she needs eyes in the community to assist with this problem: Anyone who wants stickers, please contact Debbie. As a matter of caution, make a note of the tag number on the form, and email that to Debbie so there's a record of what's been done. A list of designated individuals that have authority to call the towing company needs to be updated

Rosalie Wills (6th Street): If an owner authorizes someone to park in their driveway, is there a sign to indicate that? Debbie Coburn stated that this is not the case on 6th Manor.

Question from several in attendance (Nick Molczanow 6th Street & Jeff Thompson, along with others): How would the new rules regarding dogs affect the present owners? Bob McKinley stated that any existing animals would not be affected by new rules. His view is that you can't take someone's rights away from them by a new rule. Because there has been concern by people with pets, he found a decision of a Florida court that you can't make a rule retroactive. Rule would take effect on a given date. There is now a rule that deals with pets: stating that no more than 2 pets per household, and no dog with a weight greater than 40 pounds is permitted. Rather than making a pet ineligible on the basis of its size, other approaches were reviewed per the behavior of the animal. There is a provision in the rules that owners who walk their dogs on common area have a responsibility to pick up after their dog. It's difficult to enforce the weight of an animal..

The decision about the rules will not be made tonight. This meeting was for discussion only.

Judy Bischoff (5th Street): Regarding garbage bags, she is reluctant to put out containers due to the wind. Tom Collins stated that the rule has always been to make sure garbage is in a container. This prevents the unsightliness of the bags, and animals from breaking into the bags. Waste Management requires that a sticker be on a container before they will pick up trash and occasionally enforce this policy. Bob McKinley asked : What would you like the rule to say? Judy: Leave it as is, but don't fine her \$10 for each bag she sets out.

Steve Hale (representing his daughter Holly Hale, 6th Street) .From his experience, small dogs can be as loud as big dogs and if the owner cleans up after it, the size isn't relevant.. Sue Jordan thinks the problem comes from the ownership of dogs. If the owner is lax, then the rest of the community suffers. There should be a weight restriction. No one should have to contend with large piles from dogs. Steve Hale feels that the problem

is from not picking up; that you don't want a 30 pound dog leaving droppings either. The bigger the dog, the bigger the problem can be with the owners.. If we place too many restrictions on dogs, we will also be restricting who can live here.

Willis Michaelson: Disagrees with comment that 30+ pound dog can be problematic. He wants to have existing dogs be grandfathered in.

Murielle McKinley: If we set a rule where people have to pick up, that pertains regardless of the size of the dog.

Tom Collins asked for a show of hands if you think the existing 40 pounds limit should remain the rule.(six people raised their hands). HankSchulte stated that people have been bitten by oversized dogs. We should enforce the rules that we have. These are the same as the County rules. Bob McKinley: If the rules are modified, if we accept this report to some extent, some of the most significant changes is that there will be an enforcement process with penalties. The Board will have to deal with the complainant and the offender in an even-handed way to determine if the rule has been violated. This will result in a more complicated process to enforce the rules.

Nick Molczanow: People always have bags and clean it up. If it happens after 11:00 PM, how do you know which dog did it?

Judy Bischoff: In her experience, for those complexes that permit pets, they never allowed pets for tenants. At this point, Bob McKinley felt that the rules for tenants should be revisited.

Joanne Osterland: Are homeowners allowed to grill on their porch? Bob McKinley informed her that there is nothing in the rules regarding this issue.

Bob Monroe: His homeowners insurance is now \$1,000 (up 10%) this year. Is that consistent with others? Are we a townhouse? He did have a wind mitigation report done, but they said that he was already getting the discount because the building was less than 3 years old. Hank Schulte said some homeowners are paying \$650 to \$1,000. Also, how is the cost spread if there's a fire? Bob Monroe was informed that he is in a homeowner's association and not a condo and each owner is responsible for their own unit.

Tom Collins had some comments that were e-mailed to him

Regarding sunscreen:.. Sandy Fontana stated that suntan oil is different than sunscreen.

Regarding animals, pets known to have attacked persons or other animals, regardless of breed, needs to be added.

Satellite dishes: There are some that can be installed without damaging the roof.

Bob Guest: When we were responsible for our own roofs, it was ok to damage you own roof. Now, with the HOA taking roof replacing responsibility, the roofer may impose higher costs to correct roof damage. Flashing installed with the dish will not damage the roof. Perhaps this should be mandatory. Bob: There's no provision for dishes to be installed on the roof; they should be installed on the fascia.

Two additional homeowners say that we shouldn't have a limit on dog size, with one saying the limit should be 60 pounds.

Maureen Collins: Children (age 10-12) have been diving into the pool. Who is responsible? **Debbie:** Even with the posted sign, your HOA will be responsible. We do have a sign, and Bob McKinley hopes that no one would be shy about pointing that out to anyone violating the rules.. That pool is not deep enough for diving.

Judy Bischoff: It can be muddy near the mailboxes on 5th Avenue, although the front mailboxes have rocks in front of them. **Bob:** We'll put it on the list. Tom Collins & Mike Hanner will take care of it.

Susan Hanner: If we make a rule that no plastic garbage bags can be put out becomes a problem if people are leaving for the season or the weekend.

Tom Collins referenced the e-mail that was sent to the entire community about landscaping personnel's use of the restrooms. He asked for a show of hands as to whether anyone present objected to such use. No one raised his or her hand

4. **PRESIDENT'S REPORT** –Bob McKinley

- Drainage and Litigation-Related Matters
- Encroachment Issue

Bob McKinley reported how we're progressing with our lawsuit against the developer and engineers. He reminded those present that about a year ago, the members approved pursuing remedies to deficiencies in the drainage system that had been reviewed by our engineers and attorneys. Florida statute prescribes, as part of the notice, the builder be given time to repair the deficiencies. The pond was addressed, but not all issues were resolved. The claim has not yet been taken to the court. All parties agreed that they would attend mediation, but that has not yet been scheduled. Mediation is not a binding process; it is a one-day meeting with a non-biased party to find solutions. We've had discussions about whether this was the right direction, but based on the offer made by the opposing parties, it was deemed that mediation was the way to go. We requested that our attorneys expand the scope of the suit with regard to two title issues. About a month ago, it came to our attention that units built on the south side of 6th Street were incorrectly surveyed and the legal descriptions contained in the deeds are not accurate in relation to the building. In several cases the lot line doesn't correspond to the building, with the building encroaching into the common areas. Bob contacted another attorney (McKinnon) who specializes in real estate and HOA matters. Steve Guest and Bob McKinley met with Attorney McKinnon and brought necessary documents for review by him. The report they received from him is that it is not just a survey error. None of the common areas were ever conveyed to the HOA, and are still in the name of the developer's corporation. Units on 6th Lane" were not properly surveyed, they extend into common area, on what is Mr. Kennedy's property, and these owners never received what they paid for.

In tonight's meeting, we planned to talk about rules, of which concerned activities on common area. We will now amend our claim. How long this will take is unknown. This issue is not right, and we will deal with it.

Michelle Jacobus: The city or county never questioned this? Bob McKinley said that in all his experience, he's never seen anything like this. Whatever safety nets were intended to protect the public, were not followed. Florida statute protects public servants against lawsuits.

Bob McKinley stated that the HOA, as an incorporated body, has the right and responsibility to protect the quiet enjoyment of all its owners. From time to time we may need to amend rules that we'll have to enforce. This past winter, the Board decided to review the rules, and a report is now available. Any new rule that may take effect, particularly where it may affect animals, in his opinion, shall not take retroactive effect. Regarding pet size, in his view, regardless of whether a new rule comes into effect or not, existing animals will not be subject to any threat.

Nick Molczanow: As far as drainage, the county has some responsibility, but what solution has been made regarding who will pay for the drainage issues? Bob McKinley stated that when this board was seated, it retained engineers who conducted site inspections. They had the responsibility to identify the problem, find what was causing the problem, and suggest changes to rectify the problems. The storm pond was not built in accordance with SJRM guidelines, but has now been brought into conformance. Over and above that, the central remaining issue has to do with how certain lots, driveways or common area were graded so that surface water would always run into the drainage system and into the pond. The previous board had received a letter from the engineer (Carter & Associates) that they would rectify the problem. What Carter proposed our engineers have not agreed to. We instructed our engineers to design an alternative to determine what work would be necessary to rectify the problem. The costs have been submitted to Kennedy, their attorneys, engineers, etc. This amounts to about \$250,000. We believe that if we don't rectify the problems, based on the advice we get from our engineers, then we're not resolving the problem. The county's drainage doesn't come into play until our water reaches their system. Currently, we don't have the money to fix the problem. That would take \$3000 per unit, for us to fix the deficiencies. We're asking those who caused the problem to pay for it.

Question to Bob McKinley: How do you feel about the remedy? We gave instructions to the engineers that were founded on one principle: that we are not professionals. We don't want to judge what the professionals recommend. Bob said he's not qualified to determine the designs that will resolve the issues. Water sitting in a spot that's low and can't get to where it should be means there is a failure in the design. It may be that the engineers may make alternate suggestions, but at the moment, we have a recommendation from our engineers that disagrees with their solution.

Bettina Boudrot (517 6th St): Would the legal fees be reimbursed? Bob McKinley and Tom Collins informed her that it is not customary that you could recover your legal expenses.

5. **Managers Report** – Debra Coburn

Pool upgrade has been completed

Three units sold this month:

- Gribble
- Neal
- San Miguel

Letter from Mr. Guest and letter from Mr. Hammel: Both will be discussed later in the meeting.

Debbie has five lien documents for the president to sign tonight, to be taken to the courthouse tomorrow.

There is one unit in foreclosure. The owner is attempting to rectify.

Special Assessment - \$96,750 + \$431.09 in interest has been collected for a total of \$97,181.09

- 91 units have paid in full
- 6 are on a regular payment schedule
- 1 refusal
- 1 deceased
- 3 owe the 2nd installment
- 5 liens

An invoice from Attorney McKinnon in the amount of \$470.09 – It was agreed that this should be paid.

6. **Treasurer's Report** – Barb Conits

Operating Account	\$7,212.06
Reserve	\$50,518.44
Money Market	\$69,658.03

Hank Schulte questioned whether we were operating under budget.

Debra: \$18,000 from first quarter was used for painting, which explains why operating account is so low.

Bob: Do we have any discretionary funds in the budget? There is an ongoing list of requests, but from time to time, we have extra money, so he suggests that Debra and Barb locate the discretionary funds, and have Tom and Mike identify the needs.

Tom Collins moved to accept the Treasurer's report, seconded by Mike Hammer. It was agreed that the Treasurer's report be accepted. VOTE: Unanimous.

7. **OTHER BUSINESS**

- Discussion of Draft of Updated Rules and Regulations

- ARC Report- Hank Schulte, Sue Jordan
- Sod and fill behind second building on 5th St.-Tom Collins
- Email from Hammel re: berm etc?

Tom reported that Mr. Hammel asked that something be done to eliminate the water problems he's having on 6th Manor.

Mr. Hammel also asks why we don't have a wall installed along Indian River Blvd, in place of the berm. Hank: There is no berm. It's a mound. Bob McKinley: This issue was brought to his attention before the AGM by another owner. He's been in contact with someone who might know some prices. He doesn't treat the suggestion as casual; however, we don't have the finances now to deal with it. Would rather tell Mr. Hammel that we will evaluate his concerns. Tom Collins: Maybe install a freestanding wall between the buildings on the east end.. Bob McKinley: New technology is available that may address this. Hank Schulte: Add more shrubbery, perhaps in conjunction with a wall.

Letter from Robert Guest: The area behind the middle building on 5th Ave was never properly graded or sodded and is overgrown with weeds. He requests that the area be sodded and properly graded to prevent water from backing up into the lanais. Bob: The foundation behind his building has become eroded to a great extent. Tom received a proposal that includes applying Round Up to the entire area, installing 5,025 square feet of flora tam sod, properly grading the area including those areas behind the lanais. The cost for this will be \$2198.81. Bob: due to conflict of interest, he would have to abstain from a vote of this issue. Sandy: the same applies to her.

Motion by Tom Collins and seconded by Hank Schulte to spend the necessary funds, as outlined in the quote, to rectify the problem behind the units located between 631-649 5th Avenue. Bob asked that the expense be booked under the drainage deficiencies Motion carried. Bob and Sandy abstained from voting.

ARC: Sue Jordan reported that the ARC has been approached by Steve Guest, requesting to extend his lanai. He now wants to have a slab extension with screened ends instead of solid walls. Bob: The overhang of the roof, the outside of the fascia board would be the new edge of the roof. The lanai face would project about 18" into common area. The end wall would be screened the same as on the back. This would involve an encroachment onto HOA property. Would we want to endorse a homeowner encroachment onto community property. Debra: You'd be changing the building footprint. Bob: The question is whether the wall or the roof determines the footprint. Hank: Let's see if it's doable from a homeowner's view, taking 18" from their view easement. If everybody in a unit does it, it would be fine, but otherwise, you'd lose 18" of view easement. Tom: Anyone who wants to do this would have to expend the funds to resolve all the legal issues on their own. Then we can tackle the other issues. Sandy: There could be an issue with attic ventilation if the fascia is removed. Also, the extension would enable one neighbor to have visibility into another neighbor's porch. Bob: Best to hold off this discussion until the encroachment issue is resolved. Whether the developer should retain it or whether we do is a matter to be determined by the lawsuit.

Next meeting is Monday, May 4, 2009

Meeting adjourned at 8:00 PM.