

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

BOARD OF DIRECTORS MEETING

DECEMBER 2, 2008

1. CALL TO ORDER:

Robert McKinley, President, chaired the meeting. The meeting was called to order at 6:01 PM.

The following directors were in attendance:

Hank Schulte
Barbara Conits
Sandy Fontana
Tom Collins
Bob McKinley
Steve Guest

Deb Coburn, Property Manager, was also in attendance.

Bob McKinley introduced himself and the other board members. He stated that the order of items on the agenda would be changed slightly, so that Item 6 would become Item 3, allowing questions and comments after the budget discussion.

2. APPROVAL OF MINUTES:

Motion: to approve the November 5, 2008 minutes – Sandy Fontana, seconded by Tom Collins

Motion: passed unanimously.

3. TREASURER'S REPORT AND 2009 BUDGET

Barb Conits, Treasurer, presented the bank account balances in round numbers:

Operating acct: \$6,500.
Money Market Account: \$64,500
Special Assessment MMA \$28,500

Barb reviewed the Board's discussions held during workshops regarding HOA fee increases for the 2009 budget.

Option 1. Not have any changes to monthly assessment in 2009—take the 2008 assessment dollars and allocate them to the 2009 budget, allowing \$14,500 to be transferred to reserve account (same as 2008). The fees would remain at \$132.25 per month. The rationale behind this option is that the \$1,000 assessment, along with the downturn in the economy will have a negative impact on owners.

Option 2: Increase the fees by 15% to \$152 monthly (about \$20 increase). There was no increase for the last two years, but in April, 2008 homeowners voted that roofs and painting would be added to the HOA's responsibilities. The 15% increase limit comes from the Declaration. The board can not increase fees by more than 15% without approval at a meeting of owner's. Therefore, the 15% increase would be the permitted maximum.

Option 3: Increase the fees by \$43, which is the amount required to raise the reserve fund contributions by \$52,000 per year, as recommended by the reserve fund study.

Option 4: Compromise to increase fees by \$10 per month. It would be a start, and an additional \$10 wouldn't be as much of a burden on owners.

Bob McKinley stated that last year, as part of special general meeting, two votes were held to amend the basic spending structure of the HOA. Previously, owners were responsible for their own roofs and for painting their own houses. As far as roofs are concerned the amendments pertained to roof replacement only, not repair. Normal roof repairs remain the responsibility of the owner. Painting was also added to HOA responsibilities but was not to include the owner's back porch. There was near unanimous approval for these changes.

With these added costs comes the question of how much. The last board of directors commissioned a firm to carry out a reserve fund study. The purpose of the study was to determine what a prudent amount of annual savings for those items would be, along with the usual items requiring periodic replacement, such as roads, clubhouse repairs, pond work, etc. The study is a guideline only; it has not been officially approved by the board. One thing the board was unanimous on: There is not enough money in the bank to carry out the owners' instructions. The choices are to ignore the new responsibilities now and make special assessments later, or start saving now. We are in the process of collecting \$102,000 with the specific purpose of funding the legal/engineering costs related to drainage problem. The repainting program must start in 2009. If not, it will become more expensive later because of deterioration. Bids have been solicited.

We are in the process of collecting \$102,000 with the specific purpose of funding the legal/engineering costs related to drainage problem. The \$102,000 special assessment funds are specifically earmarked for litigation and drainage-related purposes. They can not be reallocated to other uses.

OWNER'S COMMENTS AND QUESTIONS

Rosalie Wills: Who pays for damage to an individual's roof? Answer supplied by Steve Guest. The HOA is responsible only for long term replacement. Short term repairs remain the owner's responsibility. Bob McKinley added that any loss that could be the subject of an insurance claim would be the owner's responsibility.

Nick Molczanow asked how many years the roofs are good for. The answer was supplied by Tom Collins: 15-22 years for roofs, 6 years for painting.

Harvey Rendleman asked how the board came up with a cost for the roofs. What formula was used for replacement cost. Did the board get a current estimate of roof replacement cost? Bob McKinley answered that a reserve fund study was done, but that it wasn't limited to roofs. It pertains to all common property. No reserves have ever been collected to fund anything in the study. Tom Collins added that the firm behind the study is a highly-respected national corporation that specializes in reserve fund studies. They visited the site , looked at every building and every common element, took measurements etc. Steve Guest commented that the board had asked a roofer to come and give a current estimate. Bob McKinley stated that the board is not qualified to make these calculations and so a firm who specializes in this, performed the study. Whatever we do in this budget tonight, we'll still be playing catch-up. We're not close to funding all the recommendations of the study. We hope to take the budget through the process tonight, and then revisit the study to determine further options. It could be increases on an annualized basis or special assessments. We need to adopt a capital plan. We can not tie the hands of a future board of directors. We can only provide guidance – both for the future board and for the owners, so that they know what they can expect.

Nick Molczanow asked Tom Collins what is involved in the painting. Tom advised that we would start at one end and gradually work towards the other. Nick asked when it would start. Tom Collins answered that it would start now.

Harvey Rendleman commented that his experience as a realtor in another community has shown him that problems can result for owners trying to resell their homes when some roofs have been newly replaced and others have not. The houses with the new roofs sell first. Therefore, they should all be done at the same time. Owners should be given a guarantee. Tom Collins answered that there is no way that the money will be available to replace all the roofs at once. Bob McKinley thanked Harvey for his comments and told him it would be taken under advisement.

Hank Schulte said that the board is not working on selling houses. When roofs need replacing the owners will come together and address it. Presently, three buildings need painting, perhaps even a 4th and 5th. Money will be put aside for

it. Under our fee system painting must be paid for from regular revenue, the roofs are way down the road. But when it comes it will be a huge amount.

Jacqueline Abrams asked about drainage on Indian River Boulevard. Bob McKinley answered that IR is a County responsibility and is out of our hands. She followed up by asking if the special assessment money is going to attorneys or to actually fixing the problems. Bob McKinley answered by saying that the special assessment is for a fund to cover litigation and engineering costs to implement the owners' decision last April to engage engineers and attorneys. The engineers were hired and were asked to diagnose the water problems on the east end of the site. That investigation is done. The litigation process has started. The amount of the assessment was based on an estimate from the attorneys as representing what it might cost to take the case the whole way. If we settle the case and don't spend all the money, the balance would be applied to the remediation program as required. Bob was asked who was being sued. He advised that Ray Kennedy's company and Ray Kennedy personally have been named along with Carter & Associates and others. The outcome can not be predicted. It is possible that if we lost we would have to pay the repair costs ourselves.

A final question concerned the exposed strip of land next to the Jensen's house on 5th Avenue (adjacent to Fountainhead). Bob McKinley said that he would get to that issue in his remarks under Item 4.

Returning to the matter of the 2009 Budget, the 4 options were again identified. Barb Conits brought a motion to approve Option 4, which calls for a \$10 per month increase. It was later clarified that this option entails approval of all the detailed line items that make up the total budget, as reviewed by the Board at its workshop sessions.

Hank Schulte requested that there be a discussion of the motion. He said that he prefers no increase. He knows it has to come but this is not a good year in which to do it.

Sandy Fontana indicated that the Board had spent 6 hours considering and discussing the budget. While it is undoubtedly the case that some owners can't pay the fees even now, enormous costs are coming. She owns condominium units in other projects. Resales are very much impacted by the state of a particular community's reserve fund. Buyers look at how well prepared a community is to meet its obligations. That must be weighed against the difficulty some owners are having. The \$10 increase is a compromise. It will chisel away at the problem. Owners don't want to be hit with constant special assessments.

Bob McKinley indicated that he is also opposed to an increase. He agreed that there is not enough money but he feels that because of the \$1000 special assessment now is not the time. He felt that there should be enough elasticity to wait another 12 months before increasing the fees.

The vote was held. Yes votes – Collins, Conits, Fontana, Guest
No votes – McKinley, Schulte
Budget approved 4 to 2.

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

Bob McKinley noted that there has recently been work done on the lake. He declined to repeat all that has been covered at the previous meeting. The litigation process was started and within the last month Ray Kennedy has undertaken some work at his expense. There are questions about it. There was originally a site plan approval for the project and an approved design for the pond and outlet at the northeast corner. The storm water travels from that outlet through a pipe to Indian River Blvd. The ditch in IR has not been maintained by the County and they need to do some work. We are concerned only with our deficiencies. The pond is intended to collect water after a storm. The wetland is an entirely different matter and is under the jurisdiction of a different agency altogether. It is a protected area. The storm pond is regulated by different people. County inspectors noted deficiencies in the pond some time ago but the repair work was never done. Despite that fact, the developer managed to get his bonding returned to him by the County. The deficiencies concerned the capacity of the pond to deal with an unusual storm event such as a 1-in-100 year storm. Our pond would not have performed as it was supposed to in those situations. The original design called for a 25' wide berm against the Fountainhead project that would act as a dam to keep water from overflowing into Fountainhead. The developer, Kennedy, never built the berm. We hired an attorney in Orlando. Shortly thereafter, the developer showed up with what appear to have been unlicensed contractors and they began the work. It was being done without our authorization or knowledge. The work did not proceed to our satisfaction and as some people know, one of the workers was even here with a pit bull. The Property manager was forced to come to the site to have the animal removed. At his point the work is very close to being complete. Until it is and we are satisfied with it, it will remain part of our claim.

In the southeast part of the site there is a general complaint about the mismatch between the grade of the street and that of the houses. The houses are lower than they should be. There are also problems with swales and surface flow. Our engineers have recommended solutions and those have been given to the other parties for review.

Rosalie Wills asked whether these issues should not have been dealt with before the turnover by the developer. Bob McKinley said hindsight is 20/20. The former board was hampered by the fact that Florida has no requirement that the developer carry out a technical audit before turning over the project, as is the

case elsewhere. She asked if there is any insurance coverage. The answer is no.

Regarding the exposed sand beside the Jensen's house, Kennedy's contractor is supposed to reinstate the area. We won't let it go. We have to give them every reasonable chance to correct it.

Rosalie Wills also asked if there is any insurance protection for us? No.

Bob McKinley stated that, in his opinion, the onus is on Carter & Associates. We hold him responsible. Claims against the county are difficult to pursue.

Bob McKinley closed by giving special thanks to volunteers. The Club House was decorated by Sue Jordan for the end of month part in October and she did a great job of it. The Christmas tree lights on the wall and fence were paid for and installed by Steve and Tom. The gate issue: Bob, Steve and Tom got them operating, but an accident has caused them damage. They'll soon be running again. The gates provide better security.

Jacqueline Abrams stated that it was her car that hit the gate and that she will not sue the HOA, and doesn't want HOA to sue her. She sustained close to \$2,000 damage to her car. Bob McKinley indicated that the Board would have a discussion at the end of this meeting. The Board hasn't made a decision yet. She said that she is not paying for the gate; it damaged her car. She read a statement that the gate could damage her car. She was not the driver. Bob continued that having the gates operating is desirable. She was declared out of order, and that the matter will be discussed later.

HO Question: With the Pizza Hut fire, the fire trucks were blocking our exit and no one could get in or out of VWS. Is there access thru IR Blvd? A decision was made to have Deb Coburn contact the Fire Department about the situation. It was acknowledged that the situation would be a very rare occurrence and may never happen again.

5. **MANAGER'S REPORT** – Deb Coburn

The Property Manager, Debbie Coburn, indicated that Gus had recently pressure-washed the pool deck with Tom Collins and will also replace the photocell that controls the street lighting. It should start going off at an earlier hour.

No units have been sold in the last month.

The reserve account has been topped off at \$64,680.

There should be an insurance review to increase coverage and deal with some specific items that must be covered. She requested permission to contact our insurers to begin the process. The request was approved. Tom Collins will accompany Deb during the on-site.

Deb Coburn indicated that she had received the police incident report for the gate collision.

Tom Collins asked the status of the special assessment collections. To date, \$49,518.76 has been collected. Eleven people prepaid the entire assessment. Tom asked how many people have not paid the Nov. 1 installment. Debbie will review the matter and advise later. Steve Guest calculated that the number of non-paying owners worked out to about 14.

6. COMMITTEE REPORT – Hank Schulte

Hank Schulte said that Dale Bushong was expected to be at this meeting to make a presentation to the owners about landscaping matters and to answer their questions; however, he was unable to attend. He did, though, provide a memo that Hank wished to quote from. He said that the ARC is in constant flux. It consists of himself and two non-board members. They deal with Dale on a weekly basis and depend on him for advice. He quoted from Dale's memo as follows:

My concerns, as I have explained to you and Susan, are that somehow the ARC Guidelines seem to be creating some animosity among home owners. It was my understanding that they were set up to protect the entire community from additional maintenance cost as well as keeping some uniformity throughout the property not as a means of upsetting anyone. I'm not sure everyone is on the same page. I think it should be made clear to all the home owners what the objectives are with regards to the guidelines.

-All plant materials do not necessarily require the same nutrients, maintenance and disease prevention. Fertilizer and other amendments have labels printed on them to let the professional who is applying them know what plant materials the product has been used and tested on with good results. Any plant material not listed would not be considered a warranty issue if applied to plant material not contained on the label and loss occurred. You can not by law apply any amendments to plant materials not listed on this label. Sue and I spent what I feel was unnecessary time dealing with issues throughout the property that should of been a no brainier if you read and follow the guidelines. I don't know how to make it any clearer to the home owners.

ARC: (1) Receives complete application (2) Members visit site (3) Members communicate with all neighbors concerns. (4) Members decide whether or not the improvements move forward from here. (5) Members provide contractor with drawings and ask for a written reply as to all concerns. (6) Members review all notes and should provide the applicant with a detailed conditions to improvement request if any. (7) Upon agreement by the applicant to complete and/or comply with all terms associated with the conditions of improvements the home owner should reply back to the ARC as to the solutions regarding conditions as well as a time line for completion of improvements. (8) The ARC after reviewing the conditions reply should make a ruling on the application. (9) Home owner(s), Board Members and contractor will meet at job site upon completion for final approval from the board.

Home Owners

(1) Do not plant any material or make any improvements to the exterior landscaping unless first approved by ARC (2) Follow all recommendation and procedures of the ARC. (3) Allow time for all irrigation checks and improvements to be completed before any work begins. (4) Soil conditions and drainage issues should be completed before any plant material is installed. (5) Upon approval choose Florida #1 grade plant material. Plant materials found at discount stores are exactly that. Plants to be bought at a discount rate allowing the store to increase their profit regardless of health.

Hank Schulte added that Dale is here for maintenance services. There is quite a difference between hand-pruning and machine-pruning. Dale is the single biggest expense of the HOA. When people install landscaping to be creative, they should realize that they may be causing undue expense to the HOA.

The guidelines are on the website. Either consult them or call an ARC member for information.

Rosalie Wills asked about the gap between the fence and the ground behind her house. Tom Collins said that he had walked the entire length of the fence and the gap is throughout. Whether it was built that way or the ground has dropped due to erosion he does not know. At any rate, it is too expensive to rectify.

7. OTHER BUSINESS

- A. Steve Guest indicated that the Board needs to set dates for the 2009 meetings. The matter will be reviewed in future but at least the date for the next meeting

had to be set. The board agreed on January 6, 2009 for the next board meeting.

- B. Steve Guest stated that two of the board members will have their one-year terms expiring in March, 2009 (Schulte & Guest) and a nominating committee must be formed to solicit candidates. The matter was deferred to the next meeting.
- C. Steve Guest asked that if anyone in attendance at the meeting has not signed a consent form for receiving notice of meeting by electronic means, would they please do so. Three people signed and turned in consent forms.
- D. Tom Collins discussed the erosion of the berm along IR by about 12" and requested that \$800 be set aside to install sod on the berm to prevent further erosion. Bob McKinley said that he thought sections of the berm should be replanted with thicker landscaping to block sound. Hank Schulte felt that it should be built up or more bushes added. He sees it as a protector of our property. Bob suggested tabling the issue, and getting some ARC members at that meeting.

8. ADJOURNMENT

The meeting adjourned at 7:49 PM.
An *in camera* meeting followed.