

CELEBRATION CAPE  
HOMEOWNERS ASSOCIATION, INC.  
**BOARD OF DIRECTORS MEETING**

*A Corporation Not-for-Profit*

Monday, August 15, 2016 at 6:30 pm

Held at: Celebration Cape Pavilion (203 Destiny Circle, Cape Coral, FL 33990)

**1. CERTIFY A QUORUM AND CALL TO ORDER:**

Jim Arnold, Board President, called the meeting to order at 6:30 pm. A Board quorum was established with Jim Arnold, Susan Dyszel and Linda Foreman present. (Tropical Isles Management did not have a representative present at this meeting.)

**2. PROOF OF NOTICE OF MEETING:**

Notice was posted at the Pavilion signboard in accordance with Florida Statutes, Chapter 720 and the Association By-Laws, and emailed to all Homeowners.

**3. PRIOR MINUTES:**

All voted in favor of approving the minutes from the Board of Directors Meeting dated July 18, 2016.

**4. NEW BUSINESS:**

**A. COMMITTEE REPORTS:**

- i. **Architectural Review Committee.** Les Bader, Committee Chair, noted that the current review process is going well. Several recent requests have been received, approved to proceed, and are underway. Part of the Committee's responsibility is to ensure that plans are carried out as approved, work is completed in a reasonable manner, and property restored at conclusion of project.
- ii. **Grounds Committee.** Dick Dyszel, Committee Chair, presented a detailed report. Highlights:
  1. **Entryway Improvements.** Community volunteers came together over the past several weeks to install new perennial plants and stone groundcover. The result is a more sustainable, visual enhancement to our entrance landscaping.
  2. Homeowners along 9<sup>th</sup> St. SE complained to the city about overgrown grass, and the condition of the south side of our wall, as well as flooding at the rear of their properties. We asked Tropical Isles to communicate on our behalf, that 1) the grass was scheduled to be cut within the next few days, 2) the wall is structurally sound, but we are working to improve the appearance, 3) Celebration Cape is self-contained for drainage, thus we are not at cause for external flooding issues.
  3. **Irrigation.** One of the solenoids near the entryway was broken. Since the repair required the use of a special tool, Pinnacle needs to follow up.

Pinnacle stated in their July report that there were no irrigation issues to note. This report is received with some skepticism, since no one witnessed wet checks being conducted at each lot, and no irregularities with sprinkler heads or nozzles was noted.

Per our CC&Rs (ARTICLE XI – COVENANTS FOR HOME MAINTENANCE, Section 3), the Committee reminds Association members: *“It shall be the duty of the Association to maintain the irrigation system for the Community, including irrigation to the Lots. Said irrigation system will run both on Lots and Common Area. The Lot Owner is responsible for the maintenance and repair of any portion of the irrigation system located on the Lot Owner’s Lot.”*

Members are reminded that if they notice something amiss with the system on their Lot, to contact the Grounds Committee. Lawn marker flags are available from Dick Dyszel to identify specific areas of concern.

4. **Wall.** Jack O’Neil and Dick Dyszel accompanied Andrew Sass from Owens-Ames-Kimball for a tour around the wall. Photos were also submitted to the company in support of their bid for repairs. A response is expected soon.
5. The **American flag** at our front entrance can now be flown at half-mast. Dick Dyszel and Dave Hurrelbrink will follow the flag display schedule at [halfstaff.org](http://halfstaff.org).
6. **Pavilion area.** Ongoing discussions and ideas being considered for the former **playground site**. Mark Pidro submitted a bid of \$1200 to clear debris and install zoysia sod. For FYI purposes only at this point. No action expected to be taken.

The Committee received a suggestion for offering philanthropic opportunities to the community for replacing the deteriorating **picnic tables**. The Committee asks the Board to endorse the concept and allow for presentation of a specific style and model that would suit our needs.

7. **Entry Gate.** A few weeks ago, the Committee asked Maingate to conduct a regularly-scheduled checkout of the gate components. Their report indicated that all was OK, with the exception of the arm cover on one of the opening units. There is a broken, rusted bolt lodged in the arm. Committee will repair.

The new latch for the **pedestrian gate** will be installed within the next week.

8. **Landscaping.** The Committee has been screening several companies, and is working to ensure that all proposals contain the same criteria and level of care.

iii. **Finance/Budget Committee.** Susan Dyszel, Committee Chair, presented this report:

1. The Committee met on Thursday, August 4, 2016, with the purpose of refining the recommendation for funding the HOA reserves. Three plans were considered: Plan A, Plan B, and Plan C. Details of the plans were emailed to Owners on August 12, 2016.
2. After discussion, consensus was reached on the following:
  - a. The creation of a Reserve fund is essential for the fiscal stability of the community and is in accordance with FL Statute 720.303, which states, in part, “In addition to annual operating expenses, the budget may include reserve accounts for capital expenditures and deferred maintenance for which the association is responsible.”

- b. The perimeter wall around the Community requires structural and aesthetic repairs, which cannot be deferred by several years.
  - c. The Committee recognizes that funding the reserves creates an additional financial burden for each homeowner, and is striving to maintain operating costs at the current level.
  - d. In each successive year, the Board through the Budget Committee will evaluate the status of the reserve fund, reflecting the covered expenditures made in that year.
  - e. Therefore, the committee recommends that the HOA Board of Directors adopt Plan A with a starting date effective January 1, 2017 and bring it to a membership vote for ratification as soon as possible.
3. Additional points made by the Committee centered on reminding the Association that our assets are also our responsibility.
- a. Each Homeowner bought into the concept of community enjoyment and preserving the established standards. With that, comes the understanding that maintenance and repair of common elements is a responsibility we all share.
  - b. A Budget Workshop for the Board is scheduled for Thursday, September 8, 2016. The purpose of this meeting is to review our annual operating budget, and to trim expenditures where possible.
4. At this point, the meeting was opened to the Members in attendance to allow for a discussion session on the budget issues. Specific talking points included:
- a. Q: Why are we budgeting the reserves based on the highest wall repair bid? Why do we need to accumulate so much cash in the first year?  
A: The Association will need to demonstrate to a potential contractor that we have the funds on hand to pay the full costs of repairs needed for the wall.
  - b. Q: Why we are not levying a “special assessment” for the wall repairs?  
A: A “special assessment” must be presented and approved by a majority of the Membership, the funds of which can only be used within that year for the specific, stated purposes as approved. If reserve funding is approved, it is the intention of the Committee to establish the reserves using cash flow or “pooled” funding methods. This structure of the account allows for greater flexibility in the use of funds as approved for any and all Reserve projects.
  - c. Q: The wall is structurally stable. Can we postpone repairs until the end of 2018?  
A: The HOA cannot predict the timeline for: the selection of a contractor, the determination of the specific scope of work, any necessary engineering studies, permitting processes, etc. Given those unknowns, actual work may not commence until that time.
5. The Committee petitioned the Board to vote on the following motions:
- a. **“Establish a Reserve funds account on behalf of the HOA.”** THE BOARD CONSIDERED THE MOTION AND APPROVED THE CREATION OF A RESERVE ACCOUNT.
  - b. **“Reserve account funding plan to be determined by vote of the Membership.”** THE BOARD AGREED AND WILL PUT THIS ISSUE TO A MEMBERSHIP VOTE.

## 5. OTHER BUSINESS:

The Board, having no other business to discuss, opened the floor to inquiries and discussion topics presented from Members in attendance.

## 6. OWNER COMMENTS/OPEN FORUM:

Q: Will the one empty lot on the premises be assessed by the Association at the same rate as lots with homes? When does the lot in question need to be developed?

A: Our CC&Rs state that every lot is categorized as a “home site.” That being said, the Owner of the vacant lot will be assessed at the same rate and bears the same financial responsibility as developed

lots. The Board is in current discussion with the Owner of this lot as it concerns development.

Q: What is the term of our contract with Pinnacle Landscapes?

A: On January 6, 2016, the past Board President authorized the management company (Tropical Isles) to sign 2-year agreements with the Association's vendors, direction of which also included removal of cancellation clauses. This is in conflict with our CC&Rs, which state in Article XVI, Section 10: *"Agreements for Professional Management. Any agreement for professional management, or any other contract providing for services of the Declarant may not exceed three (3) years. Any such agreement must provide for the termination by either party without cause and payment of a termination fee on sixty (60) days or less written notice."* During several in-person meetings with the President of Pinnacle (Britton Dudley), he reiterated that he would never agree to a two-year contract, and did not execute such. He is operating off the contract dated March 14, 2014, which contains a one-year auto-renewal clause.

Q: Does the Association have to honor the two-year contracts if they were signed by only one party?

A: The Board is in the process of contacting our other vendors to ascertain which contract they have executed and consider legally binding.

Q: It appears that the perimeter wall was not installed properly (poor footings and foundation work). Normally, this type of structure should be sound for 20-50 years. Do we have a warranty from the builder of the wall (PreCast Wall Systems)?

A: There is no warranty on file with the Association or the management company.

Q: If the Association receives additional project bids for the wall repair before the next Board meeting, will those details be provided for consideration?

A: Yes. Depending on the proposed costs, the amounts in the proposed reserve funds may also be adjusted accordingly.

- A Member asked the Board to conduct a straw vote of those Members present to consider closing the main gate 24/7. The Board took such a vote by show of hands. The majority of Members present voted in favor.

- The Board also noted that our CC&Rs state under ARTICLE IX – USE RESTRICTIONS, Section 8, in part, *"No all terrain vehicles (ATVs), golf carts, scooters or mini motorcycles are permitted at any time on any paved surfaces forming a part of the Common Areas."* It was suggested that a vote be put to the Membership whether to proceed with amending the Bylaws to allow for "electric golf carts" and retain the restrictions against All-Terrain Vehicles (ATVs).

- A Member presented a petition containing valid signatures of other Members in support of amending the CC&Rs to restrict rentals within the community, essentially striking ARTICLE XIII – LEASE AND OCCUPANCY RESTRICTIONS in its entirety. This petition was entered into the record and the Board is taking the issue on advisement.

#### **Board Vote:**

At this point, Jim Arnold (Board President) motioned, it was seconded, and the full Board voted in favor of presenting a vote to the Membership on the following issues:

1. Establishment of Reserve Funds
2. Consider amending the CC&Rs to allow for "electric golf carts"
3. Closing the main gate 24/7

**Other Topics:**

- Susan Dyszel, Treasurer, asked if any Member who is well-versed in HOA insurance, would help evaluate the Association's policy. George Fallica volunteered to assist.
  
- Richard Gregg (HOA Member and owner of local fencing company) clarified the issue regarding the possible installation of privacy slats in the chain link fence at the rear gate to the development. In short, privacy slats are permitted for commercial applications, but not for residential use.
  
- Jim Arnold reminded the Membership that the Board is not in the role of serving as community police. If you have an issue with a neighbor, please address directly with them. That being said, some reminders are in order:
  - Parking: The Association's Rules & Regulations state, in part: "No overnight street parking after midnight."
  - Pets: All pets must be on a leash when outdoors. As provided in our governing documents and per the City of Cape Coral, all solid pet waste needs to be picked up. This applies to all lots and common areas.

*It is the responsibility of Owners to ensure that all tenants, guests and visitors are aware of and comply with these provisions.*

In closing the meeting, the Board President encourages all Members to review and understand the proposed budget and reserve fund plans, engage in discussions with other Members on this very important issue, and address questions or recommendations to the Finance/Budget Committee.

**7. NEXT MEETINGS:**

A Special Budget Workshop Meeting for the Board of Directors is scheduled for Thursday, September 8, 2016 at 6:30pm, at the Pavilion (203 Destiny Circle, Cape Coral, FL).

The next Board of Directors meeting is scheduled for Monday, September 26, 2016 at 6:30pm, at the Pavilion (203 Destiny Circle, Cape Coral, FL).

**8. ADJOURNMENT:**

There being no further business, the meeting was adjourned at 8:03 pm.

Respectfully submitted,

Linda Foreman  
Secretary, Board of Directors  
Celebration Cape Association

***(The preceding minutes were approved by the Board of Directors on September 26, 2016.)***