

MINUTES

WALNUT CREEK MUTUAL SEVENTY REGULAR MEETING OF THE BOARD OF DIRECTORS THURSDAY, JULY 16, 2015 AT 2:00 P.M. BOARD ROOM – GATEWAY COMPLEX

President Eldon Rowe opened the meeting at 2:00 p.m. Directors Alan Matthews, Jerry Cruson, Jill Alley and Ellen Dietschy were also present. Eight resident members were also present.

Staff was represented by Paul Donner, Director of Mutual Operations; Rick West, Building Maintenance Manager; Steve Ormond, Landscape Supervisor and Anne Paone, Assistant Secretary.

Also in attendance were: Zer Iyer of Angius & Terry, Glenn Forslin of Automation Solar and Bill Parsons of the Alteration/Resale Department at MOD.

APPROVAL OF THE MINUTES

Mr. Rowe reported that the minutes of June 18, 2015 will be approved at the next meeting.

MEMBERS' FORUM

Vicky Richardson, Terra Granada, Entry 4, reported that she wanted to thank Rick West for taking care of the problem under her building. She also wanted to address the proposed alteration policy change regarding hard surface floors. She is requesting that the members be given 6 months to study the proposed change and its effects on the residents. Mr. Rowe reported that the IIC ratings are a construction standard. This issue will be discussed at the next meeting. Manufacturers cannot produce a product that meets the rating of IIC 78. Ms. Richardson reported that she appreciates the Board, but most of Mutual 70 do not know the conditions of voting on this policy. She would like something that lists the pros and cons. Mr. Rowe thanked her for her comments.

Ann Courtright, Terra Granada, Entry 2A, reported that she is opposed to having hardwood floors until she fully understands the impact on her lower unit. She finds it hard to understand that there is a hardwood floor that will not send noise below.

Richard Kirby, Terra Granada, Entry 5, reported that he is an entry coordinator. They have both garages and carports in their area. He is wondering if emergency preparedness material may be stored in the carport. Mr. Rowe reported that the Board has not addresses this issue, but he would like to see a central location with a closet where the items may be stored. He thanked Mr. Kirby for bringing up this issue.

SECRETARY'S REPORT

No report

TREASURER'S REPORT

Mr. Cruson reported that as of June 30th, the operating expenses YTD were \$293,620. This was \$1,008 under budget. The operating fund ending balance was \$101,201. The roof expenses were \$186,500 in June. As a result, the reserve balance is down. The reserve

expenses were \$331,724. This exceeded revenue by \$84,388. The reserve fund ending balance is \$1,140,574. The total assets have come down since the first of the year by \$84,388 and this is expected because of the roofing expenses.

Mr. Cruson motioned to close and transfer balances in the operating and reserve accounts from Mechanics Bank to City National Bank. Mr. Matthews seconded. The motion carried without dissent.

SOLAR PANELS

Mr. Rowe reported that this discussion is open-ended. He would like information presented to the Board and to the members present. The Board can then give direction to the policy committee.

The Mutual attorney, Zer Iyer from Anguis & Terry, introduced herself. An applicant, Edwin Kung, introduced himself. Bill Parsons from the Alteration/Resale Department introduced himself. Glenn Forslin of Automation Solar also attended.

The attorney reported that the civil code law that applies to solar energy systems is Section 714. In order to increase the ability of homeowners to use solar, the legislator created guidelines. The standard is that any governing document that prohibits the use of solar is null and void. The intention behind the provision was supposed to allow for individuals that own their roofs where the panels would be installed. This is different for the Mutual. The individual owners only own the air space, not the roof. The Mutual owns the roof. The Board has the right to determine what happens with the common area. Her firm takes the position that the civil code section does not explicitly provide condominium owners with the legal authority to install panels on roofs owned by the Mutual.

When the Mutual is responsible for penetrations to the building (roofs), if owners are allowed to make alterations to the common area, this creates exposure for the Mutual.

The other consideration is that there is another provision of the civil code which says if the Board is considering granting exclusive use of the common area to one person, the Mutual membership has to approve that granting. The civil code mandates that it go to a vote of the membership and 67% of the membership have to approve the grant.

If there is some type of damage that results from the installation, the Mutual will most likely be brought into that dispute. Insurance companies and various parties may settle the issue, but the Mutual will probably be named. There is some element of exposure for the Mutual.

There are some logistics that the Board will need to address. If the common area is owned by all of the owners, how will the Board determine what portion of the common area roof each owner gets to use?

How will the Board grant use in a fair way?

There are also issues of aesthetics. How does the Board decide what is appropriate? There could be different companies that have different styles of solar panels. The Board may want to consider a reasonable aesthetics that would be acceptable.

Her firm will always encourage the Board to limit their liability as much as possible.

There is an alternative to the 67% approval. The Board could put an amendment out to the membership for approval. It would say that the Board has the exclusive authority to grant use of the common area to individuals for solar panel installation use without requiring membership approval. The amendment would need to pass by 67% approval.

Mr. Donner reported that there is something in the civil code that says that an HOA cannot deny solar installations, but they can place reasonable restrictions.

Ms. Iyer said the language of the civil code needs to be read in conjunction with the Mutual's documents. The most common way that Associations bring solar panels to the community is by installing it on the roofs and those panels light all of the common area lighting.

Mr. Rowe wanted to know what happens when a member is requesting the solar alteration, but the Mutual doesn't have a policy.

Ms. Iyer reported that there is a requirement that there be a policy for the Board to proceed. If no policy, the Board can render a decision, but whatever circumstances the Board placed on the granting must be included in the policy.

Ms. Alley wanted to know if the response could be that an approval or denial is pending based on the creation of a policy. Ms. Iyer said a conditional approval or denial can be sent, but the Board must respond within the allotted timeframe.

Ms. Iyer stated that the civil code says that a response must be given within 45 days from the date of receipt of the application.

Mr. Forslin reported that the goal is to bring down the amount on the coupon. There are all different types and colors of panels. You need to look at the roof and then the aesthetics. How would the units share the square footage? Do all areas get the same amount of sun? Cal Fire can limit how many panels can be installed. Solar World makes the panels in USA. Chinese panels might have better colors. The Board needs to decide what they would require. What size is really needed? How many kilowatts will be needed and used? Make sure you use a state licensed solar contractor. You don't want 10 different companies that have 10 different warranties, etc. Once the panels are installed, you really don't want to remove them. You need to know what the guidelines are – same color, where does the glare go, where does the sun reflect?

Ms. Iyer said it would be difficult to come up with a policy that will make everyone happy and address everyone's issues. There are some concerns that warrant more attention.

The Board can restrict third party deals where the installer owns the panels and the resident purchases the power from the installer.

The Board is only talking about flat roof installations, no tile roof installations.

The Board needs to give direction to the committee that will write the policy. Mr. Rowe suggests that there should be no third party installations. No tile roof installations. There should be an equitable policy for all of the units. There needs to be some allocation process.

Ms. Alley commented that the Board should cooperate with other Mutuals that are further down the road on this issue.

Mr. Parsons reported that TWCM was the first to allow solar installations. There is one building on Stanley Dollar with 4 units that has solar panels.

Mr. Donner reported that TWCM is taking another look at whether or not they want to grant solar installations.

Mutual 48 is waist deep into this issue. They are using an attorney that specializes in solar installations in HOAs.

Ms. Iyer reported that the law is not clear on this and therefore there will be different opinions until the legislation comes up with a definitive policy.

Mr. Rowe asked if it would be prudent to have a policy that would allow the Mutual to install on the carports instead of the buildings to defray the cost of lighting and the operation of the elevators. Ms. Iyer said yes. It doesn't really have to be policy because the Mutual has the right to repair and maintain the carports. Depending on the financing, the membership might have to take a vote.

Mr. Rowe thanked everyone for attending and providing information to the Board.

PRESIDENTS' FORUM

Mr. Rowe asked Ms. Alley to give the report because she attended in his place. There was an update on the solar issue. The CEO search interviews will be in August. Del Valle fitness center will have some meetings where costs and designs will be submitted. There is a survey for Broadband and they are waiting for them to be returned. Cindy Ware talked about water reduction. There was a discussion regarding the service level provided by MOD. It was positive except for alterations applications being approved that are non-standard without Mutual involvement. There was discussion that the Mutuals have their own email address. The cost is \$4 per month.

Ms. Alley motioned that the Mutual create an email address for the Mutual. Mr. Matthews seconded and the motion carried without dissent.

LANDSCAPE REPORT

Mr. Ormond reported that there was a meeting on Tuesday and the biggest concern was not planting because of the drought. Curtis is getting proposals together for the elevator construction repair. If anyone sees any irrigation problems, please call MOD right away.

Mr. Rowe reported that entry 5 has a pine tree with root intrusion into the parking area of the paving. The committee is proposing that the tree be removed and enter into a contract to resurface the asphalt and replace the broken curb and add a parking space.

An owner called Mr. Rowe and asked about removing some privet bushes that are on the hillside. It would be at her cost. There were no objections from the Board.

The construction at the elevator shaft at 3874 Terra Granada still has some soil there. The contractor needs to remove it. Mr. West said the concrete swales have to be installed before landscaping can be done.

MUTUAL OPERATIONS REPORT

Mr. West presented his report as follows:

Work in Progress:

1. 3288 TG /3874 TG Elevator pit French drain system with storm drain tie-ins. 3288 TG 3874 TG Work completed by Davis Plumbing. Concrete swale proposal from Five Star estimate \$1,875.00 (Presented to Board) and Landscape rebuild to follow.

Mr. Matthews motioned to approve the proposal from Five Star in the amount of \$1,875 for 2 concrete swales. Ms. Dietschy seconded and the motion carried without dissent.

2. Elevator Modernization/Cab Enhancement 3330 TG -Contract signed. (3288 TG – Present Otis Elevator contract to board.) Total contract amount \$100,095.00

Mr. Cruson motioned to approve the contract for Otis Elevator for 3288 Terra Granada in the amount of \$100,095. This is to retain the price as long as the work is started before December 31, 2016. Mr. Matthews seconded and the motion carried without dissent.

Mr. Matthews motioned to approve the proposal from Muscio Electric in the amount of \$19,975 for electrical upgrades at 3288 Terra Granada elevator. Ms. Alley seconded and the motion carried without dissent.

3. 2015 Roofing project Contractor: All Seasons Roofing, started Thursday May 28th. Work in progress and on schedule. Currently in Entry 8.
4. 3852 TG 2B –Deck dry rot repairs estimates; Gauthier's \$22,850 AMAC \$13,073 Premier \$8,076.89. Deck coating Perfect Paint \$2,475. (Presented to Board).

Mr. Matthews motioned to approve the proposal from AMAC in the amount of \$13,073 for deck dry rot repairs at 3852 Terra Granada, 2B. Ms. Alley seconded and the motion carried without dissent.

5. Railing Painting – out to bid.
6. 3852 TG 1A – Under floor ductwork damage. (Work in progress by Five Star)
7. Carport stucco damage 3838 TG #214. Five Star scheduled to repair damage. (To be billed to owner.)
8. 3874 TG Trash enclosure Stucco repair estimate. (Work in progress by Five Star).
9. 3443 TG 1A - Dry rot plywood. On deck, rebuild Trellis and deck coating bids (Work in progress by AMAC).

Follow Up:

1. Balcony and Scupper inspections - 15 Balconies were identified as needing follow up inspection. MOD in process of re- inspections.
2. 3671 TG 1A – Shear wall dry rot – Residents contractor Slovan Construction completed dry rot work.
3. 3330 TG 4A – Waste Line Leak confirmed completed on 10/2/14. Re- inspected on 7/6/15 No further pipe repairs needed. No rodent activity. Five new building vents screens on order to be installed.

Mr. Rowe received complaints that the mailboxes are very rusted. He asked Mr. West to get a bid for the mailboxes. Mr. West will look at them and advise the Board.

EMERGENCY PREPAREDNESS COMMITTEE

Ms. Dietschy reported that Aenida Sevilla Two had a meeting and it was very well attended. There was a lot of participation. They will meet again to do more. Mr. Cruson attended and he commended Ms. Dietschy on the work that she did and the wonderful presentation.

Mr. Rowe asked Ms. Dietschy to present some styles of containers that members may use to store emergency materials. Mr. Rowe suggested that this be included in the carport policy.

ALTERATIONS

Mr. Matthews reported that 23 applications were processed, 11 have been issued permits and 20 alterations have been completed.

GOVERNING DOCUMENTS

Mr. Rowe reported that Herb Solomon has asked to be a member of the Documents Committee. The Board agreed.

Ms. Dietschy recommended that the Board appoint a liaison to interact with other Mutuals that are investigating the solar panels. Mr. Donner advised that you need to be sure that it is with a Mutual that is like-minded and is looking for the same outcome.

Mr. Rowe suggested that the Mutual designate an installer.

HELSING REPORT

Mr. West reported that adjustments to the reserve study are being worked on to be sent to Helsing.

OLD BUSINESS

Mr. Cruson reported that two residents on Avenida Sevilla were still violating parking rules after having been sent first warning letters. He suggested that they both be sent second letters advising them of hearings to be held after the August Board meeting. Ms. Alley advised that the Board needs to define temporary in their policy.

NEW BUSINESS

None.

ANNOUNCEMENT

The next regular board meeting: Thursday, August 20, 2015 at 2:00 p.m. in the Board Room in Gateway.

ADJOURNMENT

Having no further business, the meeting adjourned at 4:05 p.m.

/s/

Ellen Dietschy, Secretary
Walnut Creek Mutual Seventy