

**BOARD OF DIRECTORS REGULAR MEETING**

**Friday, August 23, 2024 at 10:00 a.m.**

**Meeting is Conducted In-Person and Virtually**

**Event Center – Donner Room  
1021 Stanley Dollar Drive, Walnut Creek, CA 94595**

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**MINUTES**

**1. Call to Order**

President England called the meeting to order at 10:00 a.m.

**1. Roll Call of Directors**

Mary A. England – President – District 5  
Peter Catalano – 1st Vice President – District 4  
Young Chung – 2nd Vice President – District 3  
Jen Moreau – Secretary – District 2 – Absent  
Jean Autrey – Treasurer – District 1

**2.**

**Mutual Operations Staff**

Jeroen Wright – Director of Mutual Operations  
Todd Arterburn – Chief Financial Officer  
Dave Peakes – Building Maintenance Manager  
John Tawaststjerna – Landscape Manager  
Victoria Thomas – Board Services Coordinator

**3. Members' Forum**

Members were afforded the opportunity to express their concerns, make comments, or have questions for the Board. Comments included:

- Requested MOD and/or the Board provide legal justification on why they are not responsible for the maintenance and function of the heating/cooling system.
- Expressed concern on drains that continually get clogged during the rainy season.
- Bylaws Section 8.6 expanding the Board is not able to happen until October 2025.
- \$1.9M in Accounts Receivable on the books is from an insurance claim in 2023.

**4. Consent Calendar**

- a. Architectural Control Committee Meeting Minutes – August 6, 2024
- b. Board of Directors Special Meeting Minutes – August 9, 2024
- c. Board of Directors Executive Session Meeting Minutes – August 9, 2024

*Motion made by Chung, seconded by Autrey, to approve the Consent Calendar. Approved by vote. (3-1 Catalano voted no)*

**5. Report Out from Executive Session Meeting**

- a. Report out from Executive Session on August 9, 2024: The Board met to discuss:  
Common Area Use  
Harassment Investigation

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Policy Violations:

- Landscaping
- BBQs, Balconies, Porches, and Decks
- Trash, Nuisance, and Occupancy

6. **Treasurer's Report** – *Autrey/Arterburn*

Cash in Bank & Sweep Accts - Operating	6,731,531
Includes an unknown amount for the property fund	
Cash in Bank & Sweep Accts - Reserve	10,733,623
Note: Sweep level is \$50,000	
Accounts Receivable -Assessments	162,737
Accounts Receivable - 3rd Party Billing & Other*	1,934,695
Total Receivables:	2,097,432
*Per Aging: \$88,000. (Balance Unidentified)	
 YTD Under/(Over) Budget	
Current Month	(188,037)
Year to Date	251,039
 Year to Date Operating Revenue: Under/(Over) Budget	
Member assessments	(3,312)
Interest	52,723
Rental	1,259
Other	10,357
Total	61,027
 Year to Date Operating Exp: Under/(Over) Budget	
Management Fee	(29,503)
Building Maint & Public Works	9,373
Landscape Maintenance	61,739
Custodial Services	(3,188)
Insurance	41,300
Utilities	129,907
Professional Svc	24,629
Other General & Admin	8,249
Income Taxes (on 2023 interest income)	(52,493)
Total	190,013
	251,040

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*Catalano made a motion, seconded by Chung, that no Director authorize a transfer of money greater than \$10,000 unless preapproved by the Board.*

*Discussion – Autrey asked Catalano to clarify ‘preapproved by the Board’. Questioning is he wanted to see the check and/or backup documentation. Catalano replied that he wants whatever the statute requires to be preapproved. Autrey informed Catalano that the statute is not specific on what needs to be preapproved. Arterburn added that he is implementing procedural changes within the Accounting Department aimed at enhancing support for the Mutuals. Approved by vote (3-1 England Abstained)*

*Second motion – Motion made by Autrey, seconded by England, to preapprove invoices every two weeks based on information received from the Accounting Department. Approved by unanimous vote. (4-0)*

*Third motion – Motion made by England, seconded by Autrey, to approve certification of compliance with Civil Code §5500 for the July financials. Approved by vote. (3-1 Catalano voted no)*

5. **Mutual Operations Reports** – Wright/Peakes  
Wright – No Report

Peakes reported \_  
**Carpentry/Paint Rehab Work**

One of our carpentry crews has finished work at 1116 and 1163 Oakmont Dr. They are currently finishing up at 1533 and then moving on to 1549 Oakmont. As of this writing, they are scheduled to be working on the rear veranda deck at 1816 #5 Golden Rain, then the painters can follow up to complete that building. Painters and deck coaters are working on 1832 Golden Rain and are following up on the Carpenters. The other crew has finished up on 2017 Oakmont Way and are then moving to 1700 and 1624 Golden Rain. Remedial work on the veranda, and painting at 1816 Golden Rain #5 has been completed. Vendors are to send me invoices for extra hours required for re-setting up etc.

**Asphalt**

Peakes received bids from 3 vendors to go forward with this years asphalt program of repaving 3 entry’s. Entry’s 2 and 3 Pine Knoll, and entry 5 Fairlawn. Silicon Valley Paving (SVP), and Black Diamond’s bids were within \$1,200 of each other. A third bid from a new vendor (TARC) came in at significantly less. SVP did the work last year for FWCM. Also, has the Board given any thought as to the ownership or maintenance of the asphalt walking path between entry’s 12 and 26 Golden Rain. Over the years the Mutual has done some maintenance to help improve the safety of the area (lighting and signage). The overall condition of the path now requires that it either be replaced or removed.

**Drainage**

The top of Fairlawn (E5) has a history of flooding when excessive rains cause the large basin to quickly fill up with debris and then overflow. Although there is a secondary basin that sits below, water and silt continue to spill into the parking lot and carports. To help alleviate this issue, I’ve gotten bids from 2 vendors to install a 6” curb which would sit in front of a 5” channel drain (with a silt guard) along the top of the parking lot. The 6” curb would continue to run along to the garbage enclosure area helping to keep that clear and safe as well. Having this done previous to, the asphalt work would be extremely advantageous.

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Roofing

All bids this year for the roofing program (from 3 vendors), have come in over our budgeted amount. I am going to defer two of the 16 unit G-11 buildings to the 2025 roofing program which is smaller in scope than this years. The tree fall building (3441 Golden Rain Rd.) was thrown into the mix this year as well. The bids took far longer than they should have to come in. In the interest of getting the program done expeditiously due to the late start, I am going to divide 15 roofs between the 3 vendors based on lowest bids. I'm also wanting more vendors exposed to FWCM, this will be a good opportunity to sample their work. I will have 3 vendors with me on the roof walk next year.

Approximately \$600,000.00 was earmarked in the budget for the roofing project. Total project cost has increased to \$650,781.00.

*Motion made by England, seconded by Autrey, to approve Baker contract in the amount of \$197,765.00 from the reserve account. Approved by unanimous vote. (4-0)*

*Motion made by Autrey, seconded by England, to approve the State Roofing contract in the amount of \$258,299.00 from the reserve account. Approved by unanimous vote. (4-0)*

*Motion made by England, seconded by Chung, to approve the Fiala Roofing contract in the amount of \$159,717.00 from the reserve account. Approved by unanimous vote. (4-0)*

*Note – this estimate includes the cost of \$24,768 to repair the roof at 3441 Golden Rain Road that was damaged when a tree fell on the manor.*

*Motion made by Catalano, seconded by Chung, to approve Absolute Best Care contract for drainage with the amendment of a larger channel drain and asphalt project of not to exceed \$13,000 from the reserve account. Motion did not pass. (2-2 England voted no and Autrey Abstained)*

8. **Landscape Manager's Report** – John Tawaststjerna

Plant Replacement

The deadline to request plants be replaced has passed. Staff received 500 requests from all the Mutuals and will provide a list to the Landscape Committee by early September.

Tree Maintenance

Staff applied for more permits for tree removal.

Pest Control

Effective immediately, Aantex will assume the responsibilities of pest control services previously handled by PI Pest Control, following the sale of the company. The contract will remain unchanged with Aantex billing the same monthly rate of \$3,850 for their services.

9. **President's Report**

The Presidents' Forum on Monday will focus on discussing the draft GRF Management Agreement, which has been shared with all Mutuals' Board Members. Input from the members is currently being collated, and a summary of this feedback will be provided during the meeting.

10. **Committee Reports**

- a. Budget and Finance – Paul Moderacki  
Treasurer's Report

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- a. Monthly Financial Statements Both the May and June Financials were received prior to the meeting. Ms. Sund questioned why \$18,750 was charged to the Replacement Reserve Insurance account on the May 31, 2024 statement and why \$33,281 had been charged to the Insurance-Uninsured Loss account (year-to-date), as no funds were budgeted for the account. The June report showed no additional charges against the account.
- b. Update re: 2022 & 2023 Annual Financial Statements Ms. Autrey reported President England signed the Audit Letter after the May Board meeting, finalizing the 2022 audit process. She said the Porter Group was already working on the 2023 audit. She added the 2022 Financial Statement would be mailed soon.

### Unfinished Business

- a. Committee Vacancies Moderacki said he would contact the Rossmoor News to run the Committee vacancy notice again.
- b. Update: Common area electrical expense review Ms. Sund said she continued to make headway, noting there were four rate increases in the past 12-18 months.

### New/Other Business

- a. Engineering Charging Evaluation Report from MCE Mike Sund, Capital Projects Committee chairperson, reported the Committee had received an engineering report from MCE regarding installing EV charging stations throughout the Mutual. He said the estimated cost was \$13.338 million, with a possible rebate of \$5.624 million. He added the study included replacing all the exterior Zinsco panels. He said the cost per carport ranged between \$2,000 to \$10,000, depending on the amount of trenching required. The Capital Projects Committee is awaiting a second report from MCE/PG&E related to upgrading the Mutual's transformers, which could significantly increase the cost of an EV charging project. He expects the second report by the end of August.
- b. Landscape Committee – *Pat Power*
  - a. 10:20 AM Daffodil Garden Discussion  
The Committee met with Jean Autry to discuss the “Daffodil Garden” located in Entry 14 on Golden Rain. There have been numerous issues regarding continued expansion of the garden without approval, resident planting, resident storing of garden and other equipment in the common areas, hazardous furniture, bad practices regarding the trees, and resident confrontations. BrightView is unable to properly maintain the area. It was decided that the whole area would be rehabed and “reclaimed” by FWCM to common area property. Community space will be designed to meet FWCM standards. Resident meetings will be held. The first is August 21st at 10 AM.
  - b. Turf conversion discussion and selection  
Areas for test turf conversions were identified and approved. Some areas were designated for outside design contracts whereas others are to be done by the LD.
  - c. Design considerations; sheet mulching, timing
  - d. Plant Replacements  
Decision on timing. Proposal to do plant replacements during November 15 – January 31 window only.  
Deadline for January 31st to get plants into the ground was approved.

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c. Capital Projects Committee – *Mike Sund*  
The Committee is reviewing the electrical programs to improve energy usage within the Mutual.

d. Social Engagement Committee – *Marcia Keating*  
Events

August 27<sup>th</sup> the Committee will host a Meet and Greet your Candidates in the Donner Room at the Event Center from 4:00-5:30pm. Featured guests are Peter Catalano and Peggy Kaiser.

September 24<sup>th</sup> the Committee will host a Create your Neighborhood at the Creekside Clubhouse in the Club Room from 4:00-5:30pm.

To date, the Committee has spent \$484.05 and is asking for an additional \$275.00.

**11. New Resident Orientation**

Next Orientation Meeting is scheduled for September 10, 2024 at 7:00 p.m. in the Bunker Room at the Creekside Clubhouse.

**12. Unfinished Business**

Action Items

a. Board Meetings and Agendas – Catalano

Proposed procedures are:

1. Agendas should be description enough to give people an idea of what the issue is.

Comment -

England encouraged the Board Members to be descriptive with agenda topics.

2. Discussions at Executive Sessions should be limited to the agenda.

Comment -

No discussion

3. Actions of the Executive Meeting must be summarized.

Comment -

England stated that any identifiers must be redacted in the minutes.

4. Committee Members should participate in the discussion.

Comment -

England stated that a clear structure for Board meetings where Committee Members are not allowed to participate in discussions, emphasizing that reports from the Committees will be presented on the agenda, alongside a Members' Forum held at each meeting to facilitate communication and input from residents.

5. The Board should be focused on the audience as customers.

Comment -

England agreed. Adding that being customer-focused highlights the importance of direct communication between residents and Board Members outside of formal meetings, ensuring that individual concerns and feedback are addressed in a more personalized manner.

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6. The report packets should be posted and emailed.

Comment -

Catalano stated that residents should receive the report packets. Chung responded that some reports are able to be shared with residents. The Board is subject to what is distributed to residents.

7. The minutes should become the primary vehicle the Board communicates with its constituents.

Comment -

Report on topics discussed in Board meetings is currently not being done.

With the absence of a functioning Board Secretary in the Mutual is impacting the dissemination of Board meeting reports in the newspaper. Without this critical role being filled, the documentation and communication of discussed topics are hindered, affecting transparency and member awareness regarding the Board's decisions and initiatives.

8. Minutes of emergency meetings need to be posted.

Comment -

Board agreed.

*Motion made by Catalano approve and adopt Catalano's proposed procedures on agendas and minutes. There was no second motion made. Motion did not pass.*

- b. Proposed Amended Bylaws – Chung  
3.14 – Definitions - Remove Districts  
3.16 – Definitions - Added Exclusive Use Common Area  
8.1 – Board of Directors Number of Directors: Residency Requirements  
8.6 – Board of Directors Term of Office

Topic deferred to allow Board Members additional time for review and comment.

**13. New Business**

**Action Items**

- a. Pest Control

England questioned if additional pest control was necessary. Tawaststjerna will research and report back to the Board.

- b. Social Engagement Committee Budget for 2024

Keating proposed adding \$275.00 to the Budget for 2024.

*Motion made by Autrey, seconded by Chung, to approve adding \$275.00 to the Committee's 2024 Budget. Approved by unanimous vote. (4-0)*

- c. HVAC Filters – England/Peakes

Topic Deferred

- d. Letter of Representation – England

*Motion made by England, seconded by Autrey, to approve Mary A. England and Jean Autrey sign the 2022 Audit. Approved by unanimous vote. (4-0)*

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11:36am Peter Catalano left the meeting.

e. Contractor Work Yard Presentation – *Pam Grove/Paul Wright*

Recommend Actions:

1. Eliminate contractor work yard located on Rockledge Lane
2. Terminate storage area contract for Rockledge Lane work yard

Background: From what we've been able to determine anecdotally, the Rockledge work yard has been in its current location for approximately 35 years. We believe it was established on Rockledge Lane in a common area location without a member vote, which is required, according to the Davis Stirling Act. We have requested minutes and contracts to corroborate these beliefs, but they have not yet been located. Regardless, when first presented with the noise and nuisance of the Rockledge work yard, it became apparent that this Board and MOD staff believed the work yard is not a construction site, but simply a storage facility. However, the following issues should be noted:

- Concern over potential for fire due to previous poor storage of hazardous materials at the work yard
- Noise and traffic after stated First Mutual and Rossmoor work hours (including on weekends and in the middle of the night)
- Excessive truck and vehicle traffic
- Excessive vehicles and trucks parked in the Entry 8 and 10 guest parking lots and on Rockledge Lane (creating traffic issues on Rockledge Lane, and making parking less available for Entry 8 and 10 guests)
- Excessive trash along Rockledge Lane
- Unusable Entry 10 bathroom facilities due to lack of cleanliness as a result of contractors' constant use. In addition, the following risks and liabilities exist as a result of the lack of a current work yard contract and oversight of such contract:
  1. There is no oversight of the contractors using the work yard or inspection of the facility, so even if there were a contract, First Mutual cannot ensure the terms are being met
  2. If there is no inspection of the property, First Mutual cannot ensure there is not a fire hazard and a risk to the residents and mutual assets (property)
  3. No current contract means contractors might be trespassing on First Mutual property
  4. No current contract means there are no work hours to be enforced
  5. No current contract means the use of the yard as merely a storage facility cannot be enforced
  6. There is also the potential to affect the marketability of the homes in that neighborhood (no one wants a work yard of this nature near their home)

Because the contractor is only paying \$500/month to FWCM to lease this property, one might ask what is the benefit to FWCM? Note that FWCM pays for the landfill waste to be removed from the work yard, sometimes at a cost exceeding that \$500/month. We see only disadvantages to FWCM having this work yard on the Mutual's common area property.

Alternatives & Options

1. Accept Recommendation for elimination and termination – this is the preferred alternative
2. Reject Recommendation (knowingly accepting accompanying risks and liabilities – see Background, above, and Management Impact, below)

Subsequent Actions: Subsequent actions are up to the First Mutual Board. If the Board decides to accept the recommendation, it would need to determine what would be an appropriate time to allow for the contractors to vacate the property. If the Board rejects the



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recommendation, it should, at the least, put a current contract in place for the continued use of the yard that includes:

1. The ability for First Mutual to terminate the contract at any point in the future for any reason
2. Ongoing maintenance of Rockledge Lane and the Entry 10 laundry bathroom
3. Ongoing oversight and inspection of the work yard (to ensure compliance with the Mutual contract, policy, and to insure there are no fire hazards)
4. Ongoing noise, parking and traffic mitigation for the surrounding area.

Financial Impact: The financial impact is not yet established due to the potential for relocation, restoration and cleanup of the current site.

Schedule: The schedule would depend on which alternative the Board selects. We propose the Board select the first proposal, which has the shortest timeline potential.

### Management Impact:

There are several issues, risks, and liabilities to First Mutual property and members related to the Rockledge contractor work yard:

1. Fire risk due to potential for improper storage of flammable containers and material (and location of nearby PG&E power lines, where there have been two fires in the past year)
2. Potential for hazardous material damage due to chemical storage and fuel (compounded fire risk)
3. Potential ongoing Mutual policy violations:
  - a. Policy 4.0, Commercial Activities, “No commercial activity may be conducted in the common area.”
  - b. Policy 4.2, Construction Materials and Debris, “No portion of the Mutual shall be used for storage of building materials...all construction debris shall be picked up and deposited daily.”
  - c. Policy 4.3, Machinery and Equipment, “Except as approved by the Board, no machinery or equipment of any kind shall be maintained or operated within the Mutual except as is customary and necessary in connection with approved construction.”
4. Potential policy violation from the conversion of a common area to a private industrial zone use without a member vote for approval (California Civil Code 4600 (a), “Unless the governing documents specify a different percentage, the affirmative vote of members owning at least 67 percent of the separate interests in the common interest development shall be required before the board may grant exclusive use of any portion of the common area to a member”).
5. Potential risk of devaluation of property values, creating negative marketability in the Rockledge and Oakmont areas.
6. Risk of a negative outcome from a future county fire inspection of the construction work yard.
7. Risk of hazardous findings in an environmental review of the area – this is an issue that is better undertaken sooner rather than later.



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Young proposed an Ad-Hoc Committee for formed. England and Autrey volunteered to be on the Ad-Hoc Committee.

Topic Deferred

- f. Bylaws Voting Procedures – *England*

Topic Deferred

- g. Communication Support Services Contract with Visibility – *England*

Topic Deferred

**14. Informational/Discussion Items**

- a. Firewise Program Presentation – *Wright*

Jeroen gave a presentation on the Firewise Program and emergency preparedness and evacuations.

- b. Election of Directors Schedule – *England*

Topic Deferred

**14. Announcements**

The next scheduled meeting is the Board of Directors Regular Meeting on September 27, 2024 at 10:00 a.m. in the Club Room at the Creekside Clubhouse as well as virtually.

**15. Adjournment to Executive Session**

There being no further business, the Board of Directors Regular Meeting was adjourned at 12:19 p.m. and the Board moved into Executive Session.

**16. Executive Session Summary**

The Board met in Executive Session from 12:26 to 12:46 p.m. to discuss a Disciplinary Hearing regarding a Member's Reimbursement Assessment.

**Board Assistant Secretary's Certificate**

I hereby certify that the foregoing is a true and correct copy of the minutes.

*Victoria Thomas*