



THIRD WALNUT CREEK MUTUAL
BOARD MEETING MINUTES
MONDAY, JANUARY 8th, 2024, AT 9:30AM
ZOOM MEETING AND IN-PERSON
BOARD ROOM – GATEWAY
1001 GOLDEN RAIN RD
WALNUT CREEK, CA 94595

Call to Order

President Lauck called the Regular Meeting of the Board of Directors of Third Walnut Creek Mutual (TWCM) to order at 9:30 a.m.

Roll Call

Directors Present:

- Tom Lauck, President Dist. IV, (2026)
- Mike Abell, Treasurer Dist. IX, (2025) (zoom) Nan Warren, Director Dist. XIV, (2025)
- John Swearingen, Secretary Dist. VII, (2024) James McFarland, Director Dist. III, (2024)
- Florence McConnell, Director Dist. XIII, (2026), Marty Schwager, VP Dist. X, (2024)
- LauraLee Barbaria, Director Dist. XV (2025), Bill Leary, Director Dist. V, (2026)

Staff Present:

- Jeroen Wright, Mutual Operations Director
- Clayton Clark Building Maintenance Manager
- John Tawastsjerna, Landscape Manager
- Lucy Limon, Board Services Coordinator

Members’ Forum

Members were afforded the opportunity to express their general concerns and make comments. Topics discussed included: director elections and 2024 coupons.

Approval of Meeting Minutes

President Lauck for any corrections and/or additions to the following sets of minutes:

- a) Regular Board Meeting Minutes December 11th, 2023
- b) Executive Meeting Minutes..... December 11th, 2023

Tom Lauck made a motion and Marty Schwager seconded to approve the minutes to the aforementioned Board meetings.

Moved, Seconded, Carried 9-0

President’s Report

President Lauck gave the following report:

The following is a report from Jeff Matheson, GRF General Manager, to Mutual Presidents:

Over this past month our insurance broker team from Gallagher has been hard at work in the marketplace to secure coverage for GRF and the mutuals. As you all know this has been an exceptionally challenging



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year for all lines of insurance and specifically property insurance. Gallagher has bound all the lines of coverage for effective dates of 1/1/2024. Adding to the challenge this year was the significant increase in valuation of the covered property following the 3rd party appraisals done by Kroll. Some key take aways:

- All lines of coverage have now been bound for 2024 with an effective date of 1/1.
- The total budget as adopted by participating mutuals and GRF for all lines is \$22,268,079.
- When these budget estimates were completed, they were based on a total insured value of \$2.014B. After the completion of the appraisals the revised valuation is \$2.659B. This is a significant increase in value which triggered additional rate increases.
- The original direction to Gallagher was to secure policy limits of \$1B based on modeling that showed a 1 in 10,000-year loss would be just over \$900 million. Although a \$1 B policy limit does not provide for 100% replacement value coverage in the event of a total loss, it does provide significant security for 100% coverage based on modeling for a 1 in 10,000-year loss event. With the significant increase in valuation the modeling for a 1 in 10,000-year loss was revised to \$1.266B. Based on this revision the updated direction to Gallagher was to try and achieve coverage of \$1.266B.
- In order to stay within approved budgets, the max coverage Gallagher was able to secure is \$1.155B plus the \$5.0 M retained Risk Layer for a total of \$1.16B.
- The total cost of coverage (net of commission rebates) for 2024 is \$22,305,300 or just \$37,221 over budget. This is remarkable given the significant increase in valuation.
- Total estimated commission rebate back to GRF and participating mutuals is \$1,588,789. This was the total estimate net of Gallagher fees paid under contract terms.
- In 2023 the tower of coverage was \$1.47 Billion but contained gaps in coverage totaling over \$41million. The 2024 coverage tower has no gaps in coverage.

Additional Notes:

- GRF and the Mutuals may have the option to consider increasing the upper layer limits by \$66M to increase coverage to meet the 1 in 10,000-year loss estimate of \$1.226 Billion. Gallagher will provide an additional cost estimate for the added coverage. This will be presented to the mutual presidents and GRF Board in January.
- The Alternative Risk Transfer program is the base layer of \$5M in coverage and has a five-year agreement with 85% of the premium, less any losses, being returned to GRF and the mutuals. These funds will remain in the “experience” account and grow interest. If there are funds remaining after claims paid, they can be accessed after year three of the

Secretary’s Report



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No report was presented.

Treasurer's Report

No report was presented.

- a. Motion that the Mutual Funds Report has been reviewed by the Treasurer and a summary provided to all Directors:
Moved, Seconded, Carried 9-0

- b. Motion that all Directors have reviewed their Project Specific Financials.
Moved, Seconded, Carried 9-0

Managers' Report – Jeroen Wright

Jeroen Wright reported that as of December 23rd, 2023, Rossmoor is a Firewise recognized community. The committee will be meeting within the next couple of weeks to finalize their mission statement. The committee will also be meeting with ConFire to discuss their 2024 plan. The Rossmoor News will be attending the monthly meetings, look out for articles in the newspaper.

Jeroen also commented that he is now certified with CACM.

Finance Committee Meeting

No report was presented.

Building and Maintenance Committee

No report was presented.

Nan Warren made a motion, seconded by Bill Leary, to approve a \$10k acoustical test on upstairs units for hard surfaced flooring to be performed by Salter Acoustical Engineers.

Moved, Seconded, Carried 9-0

Clayton Clark presented the following report:

For the month of January 2024

Project 23

- ❖ AMS selected to perform work and is approximately 50% complete.
 - Perfect Painting is following behind AMS.
 - Owners will pay for alteration modifications if needed on flooring.



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- MOD pricing out painting of all rear guardrails and deck trim for consideration
- ❖ Scavenger pump for the elevator to reduce oil getting into the pit approved.
- ❖ Reviewing custodial contract as recreation room was unsightly.
- ❖ Assisting with EOY followup questions.

Project 26

- ❖ **1691 PT alteration hose rupture under review.**
 - **Vargas Plumbing providing price for building isolation valve**

Project 27

- ❖ **Flat roof maintenance under review. Coating and overlay considered.**
- ❖ **Following up on alteration roof.**

Project 31

- ❖ **Following up on alteration roof.**

Project 32

- ❖ **No action to report.**

Project 33

- ❖ **No action to report.**

Project 34

- ❖ **Resolving water accounting questions as shared with Project 64**

Project 35

- ❖ **Temporary electrical fix by 3112 TGR requires a more permanent solution.**
- ❖ **SB 326 Balcony inspections completed and waiting on report.**

Project 36

- ❖ **Partial roof repair for 2105 CC completed before rains.**

Project 37

- ❖ **Resolving trash enclosure slip and fall.**

Project 38

- ❖ **No action to report.**



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Project 42

- ❖ **Fleece completed French drain installation at 626 TCal.**

Project 44

- ❖ **Planning 2024 rehab.**

Project 45

- ❖ **Fiala will be doing roof at 3612 RP rear balcony due to past leaks and waiting for 3 good days to complete.**

Project 49

- ❖ **Looking into additional sewer cleanouts. 1606 SD bid pending to avoid backing up inside unit. No action to report**
- ❖ **Waiting price for pump house maintenance and reserve replacement. No action to report but continuing to followup.**
- ❖ **Elevator at 1812 SD hydraulic pump replacement approved and waiting on schedule.**

Project 51 A:

- ❖ **4243 TGR-rotten roof beams replace by AMAC along with the decayed wall due to past roof leak.**
- ❖ **MOD carpentry rehab will be working in Late January or early February depending on weather and other 2023 planned work.**
- ❖ **Roofing completed and performing final inspection.**

Project 51 B:

- ❖ **Roofing contract for last 2 roofs waiting on 51-A completion. Will go into 2024.**

Project 54:

- ❖ **1404 SD completed.**

Project 64

- ❖ **No action to report.**

General:

1. **Staff reviewing liquid roof system for flat roofs to extend life cycles. 2 manufacturers are being considered. Dark color will be needed on visible roofs.**
2. **Staff working on 2024 rehab and other planned work.**



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BOARD MEETING MINUTES
MONDAY, JANUARY 8th, 2024, AT 9:30AM
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Landscape Committee

Jerri McNair presented the following report:

At our next landscape reps meeting on January 17, 2024, we will be reviewing our 2023 goals and priorities which are listed below. We will see which goals we have been able to accomplish in 2023 and what needs to be done in 2024. Below are our 2023 priorities of our progress and new information.

Fire Safety:

- Removal of hazardous flammable plants*
- Limb up all trees to 8 feet*
- Keep gutters free of debris during fire season*
- Annual weed removal on hillsides*
- Plan for more firesafe plans*

Zero defensible space in California. Assembly bill 3074, passed into law in 2020 requires the Board of Forestry and Fire Protection to develop the regulation for a new ember resistant within 0 to 5 feet of the home for specified high-fire hazard areas. Science has proven it to be the most important of all the defensible space zones.

“Fire retardant plants are those easily maintained, pruned, drought in some cases, can be grown without accumulating, dead branches, needles, or leaves, have a low sap or resin content, and grow close to the ground.” From Department of Forestry, “Fire Safe: Inside and Out”.

Water Conservation:

- Change to low water species*
- Removal of turf...use sheet mulching, not scalping or let dry out*
- Shift to high efficiency MPs or drip*
- Some areas getting too much water, and others not enough*
- There are areas where plants are blocking spray heads, causing water runoff*
- Concern about trees that are stressed where water has been cut back*
- Inappropriate use of bubblers and not placed in root zone*

Goal #1 is change to low water species. That means you only install low water use or very low use water use plants (see WUCOLS). Goal #2 is the removal of turf by use of sheet mulching. That means you do not use an herbicide spray to kill the lawn, nor do you scrape it off and take it to landfill. The good news is that the removal of lawns will mean we have plenty of water for our low water use plants and our trees.

Planning and design work:



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ZOOM MEETING AND IN-PERSON
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Need landscape plans for areas to be cleared or already cleared of flammable plants
Create gathering spaces for neighborhoods
Create maps to show needed lawn conversions
Create maps to show where additional fire safety work needs to be done
Tree replacement plan needed
Use native plants and pollinator friendly gardens

Irrigation zone maps have been distributed to the landscape reps to help in identifying areas for water conservation. We do not yet have a plan for tree replacement or standardized tree and plant guides.

Maintenance

Notify residents when pruning is going to take place
Annual weed removal. How is that going to be handled?
Annual tree walk: when and how?
How to keep mulch on hillsides
Unnecessary pruning of plants and trees. No stripping out “lion-tailing”

We are still having problems with unnecessary and inappropriate pruning of trees. There are also complaints about how mulch being blown off, leaving soil exposed. We do have a yearly calendar which in review stage that will be used to notify residence when maintenance activities are going to be done on an annual basis.

Governing Documents Committee

Florence McConnell gave the following report:

Issue

California laws changed regarding allowable restrictions on Rental/Leasing Units by HOAs.

Board Discussion and Consideration

Recommendation from the Governing Docs Committee, by a vote of 3 yes and 1 no, to revise the TWCM Leasing requirements as follows: (1) remove the one year rental restriction during the time the owner holds title to the unit, (2) add a restriction to cap the number of rentals to 25% of all units in TWCM, and (3) retain the restriction on short term rentals of less than one month.

Background

As of July 1, 2022, Civil Code section 4741 provides that associations cannot have restrictions in their governing documents, or make amendments to the governing documents, that prohibit or unreasonably restrict “the rental or leasing of any of the separate interests, accessory dwelling units (ADUs), or junior accessory dwelling units (JADUs) in the HOA to a renter, lessee or tenant.”



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BOARD MEETING MINUTES
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ZOOM MEETING AND IN-PERSON
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Two restrictions are legally allowed: Restrictions capping the number of rentals to a maximum of 25% of the units and restricting short term rentals of less than 30 days.

TWCM documents state “each TWCM may only lease their unit as a whole, whether by a single lease or several leases, for a total of one year during the time the owner holds the title to the unit” . There is no percentage restriction on the number of rental units permitted.

The term “unreasonable restriction” has not been defined. The question raised was if our current one year per lifetime of ownership would be considered unreasonable if tested in the courts.

Penalties for Noncompliance

An HOA that willfully violates Section 4741 “shall be liable to the applicant or other party for actual damages and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).” (Civ. Code § 4741(g).)

Alteration Permit Application Review

No report presented.

Communication Committee

No report presented.

Emergency Preparedness Committee

Fran Gibson provided the following report:



I want to report today on a very disturbing issue we face daily here in Project 51B — one not likely to be an isolated public safety issue — the illegal smoking by a resident on his back patio in Entry 15. The secondhand smoking city ordinance violator is a resident on Terra Granada Drive.



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The resident has smoked illegally on his back patio for 5 years or more in flagrant violation of Walnut Creek’s Ordinance # 2118 (secondhand smoking ordinance passed in February 2013). His unit sits in the pod above me and we neighbors in Terra Granada Drive are very concerned when we can see his cigarette smoke curling above his hidden back patio smoking chair — sadly we cannot actually view him smoking and therefore cannot take a photograph of him smoking making our ability to adequately report him to the City to “go up in smoke”!

The resident has installed two black balcony covers on the railing in front of his smoking chair so he cannot be seen smoking thereby preventing neighbors from taking the required evidentiary photos of his infractions. This guarantees his illegal smoking can continue unabated and unreported.

Residents in my entry fear a cigarette ember escaping his ash tray in a strong wind will result in a home fire or wildfire in our neighborhood. Question: why does Third Mutual allow opaque balcony covers when clear covers afford the same protection from wind? Why are there no CC&R’s stipulating opaque rail coverings are not permitted? Could a small drone be used to capture an evidentiary photo of the smoker violating the City’s secondhand smoke ordinance?

His neighbor in the condo south of him replaced her HVAC system (for \$16,000) to help ensure she does not choke on his constant illegal smoking. She now requires daily lung medications to mitigate his illegal smoking. She reported to me “At the risk of my health, I am forced to remain here and smell the smoke, share common walls with him and inhale cancerous secondhand smoke that persistently enters my vents. I am a prisoner in my own home.”

When our city’s secondhand-smoking ordinance was passed in 2013, it was heralded as the strictest in all Contra Costa County. It bans smoking in all multi-unit residences (apartments, condos and townhouses), limits all smoking in downtown Walnut Creek, all recreation areas and all commercially-zoned properties with outdoor eating or service areas.

Our city’s secondhand-smoking ordinance is stricter than Contra Costa County’s Secondhand Smoke Protections Ordinance passed in July 2019. It legislates \$100 for the first offense, \$300 for the second and \$500 for each violation thereafter. After that, the law gives the city attorney power to bring a civil suit against a repeat offender.

Serving as Entry 16 EPO Co-Coordinators, Tim Davis and I encouraged the Presidents Forum to invite Nancy Templeton (Walnut Creek Code Enforcement Officer in the Community and Economic Development Department) to tutor Mutuals in what the secondhand-smoking ordinance requires in evidence to report an actionable violation resulting in a citation.



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Ms. Templeton gave a detailed presentation and let Mutual leaders know the the city’s secondhand smoking ordinance (while strong) has some reporting hurdles that may require neighbors to get a clear photo of the violator smoking in his/her home or back patio enabling Securitas or the City to come out and cite the violator.

A recent June 2023 NIH report alarmingly finds for the first time passive smoking exposure contributes markedly to cognitive impairment in seniors 65+.

This cognitive decline limits the capability of Rossmoorians to respond capably to any major disaster or emergency. Our age cohort consistently suffers the greatest risk for mortality and morbidity from any type natural or manmade disaster or emergency.

We have known for years that passive secondhand smoke contributes to multiple health risks for its victims: lung cancer, high blood pressure, atherosclerosis, heart attacks, strokes, chronic obstructive pulmonary disease and adult-onset asthma. This egregious breach inflames the knotty Frailty Syndrome we seniors face as we age.

President Lauck, I implore you to contact Nancy Templeton (email: templeton@walnut-creek.org) or by phone (925-943-5863) to gather more details on what it takes currently for Third Mutual residents to effectively and adequately report a secondhand-smoke infraction.

Tim Davis and I met with Nancy in September 2019. She emphasized that smelling smoke is insufficient to report an offender. She reported the City requires two residents to actually see the resident smoking and be able to provide evidence (description with time and/or time-dated and place-dated photo). She revealed the City had carried an open complaint against the smoking residents unit and that he had received notices from both Third Mutual and her office to cease his violations. She emphasized that it may prove that civil remedies are easier and more effective (albeit it slower) to end the health hazards Rossmoor smokers visit on their neighbors.

And residents should pressure City Council to add wildfire threats to the house fire threat cited in the original ordinance to strengthen reporting measures. Rossmoor EPO will be happy to lead that advocacy campaign in the future

Electric Vehicle Charging Committee

No report was presented.

Old Business



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BOARD MEETING MINUTES
MONDAY, JANUARY 8th, 2024, AT 9:30AM

ZOOM MEETING AND IN-PERSON
BOARD ROOM – GATEWAY
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WALNUT CREEK, CA 94595

- a. Board action regarding Civility Task Force Mr. Lauck
No update was given.

New Business:

- a. 2024 Shared Deductible Agreement..... Mr. Wright
Nan Warren made a motion and Marty Schwager seconded to approve the 2024 Shared Deductible Agreement.
Moved, Seconded, Agreement 9-0

- b. P 26, BHS-302030, \$207,000 Treasury maturing 1/25/2024; \$178,000 Treasury maturing 1/18/2024; \$200,000 CD maturing 1/26/2024 — Reinvest the 2 Treasury investments into 90-day Treasuries, Place the proceeds of the 200,000 CD into the reserve sweep account for the 2024 insurance premium.....Mr. Lauck/Mr. Abell
Moved, Seconded, Agreement 9-0

- c. P 37 BHS-302038, \$305,000 Treasury maturing 1/28/ 2024 – reinvest in 90-day Treasury.....Ms. Warren/ Mr. Abell
Moved, Seconded, Agreement 9-0

- d. P 38 BHS- 302039, \$101,000 Treasury maturing 1/18/ 2024 – reinvest in 1 year Treasury or CD depending on interest rate available..... Ms. McConnell/Mr. Abell
Moved, Seconded, Agreement 9-0

- e. P 44 BHS- 302043, \$204,000 Treasury maturing 1/18/ 2024 – reinvest in 90-day Treasury.....Mr. Schwager/Mr. Abell
Moved, Seconded, Agreement 9-0

- f. P 45 BHS -302042, \$204,000 Treasury maturing 1/18/ 2024 – Place the proceeds of the 204,000 CD into the reserve sweep account for the 2024 insurance premium...Mr. Abell
Moved, Seconded, Agreement 9-0

- g. P 49 BHS -302044, \$314,000 Treasury maturing 1/25/ 2024 – Reinvest in 90-day Treasury.....Mr. McFarland/Mr. Abell
Moved, Seconded, Agreement 9-0



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BOARD MEETING MINUTES
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Announcements

Next scheduled meeting will be held on Monday, February 12th, 2024, at 9:30 am, via zoom and in-person.

Adjournment to Executive Session

There being no further business, the Regular Meeting of the Board was adjourned at 11:55 am and the Board moved into executive session.

Executive Session Summary

The Board met in executive session from 12:00 pm to 1:00 pm and discussed the following:

1. GRF Management Agreement and Performance:
The Board met in an executive session with Roxane Stallings to discuss the GRF Management Agreement and staff performance.

Secretary's Certificate

I hereby certify that the foregoing is a true and correct copy of the minutes of the Board of Director's meeting.

Lucy Limon

Assistant Secretary

Third Walnut Creek Mutual