

# THIRD WALNUT CREEK MUTUAL

REGULAR SESSION MEETING MINUTES OF THE BOARD  
MONDAY, JANUARY 14, 2019 AT 9:00AM  
BOARD ROOM, GATEWAY COMPLEX  
1001 GOLDEN RAIN RD., WALNUT CREEK, CA 94595

## **Call to Order**

President Bank called the Regular Meeting of the Board of Directors of Third Walnut Creek Mutual (TWCM) to order at 9:01 a.m.

## **Roll Call**

### **Directors Present:**

Judy Bank, President XV (2019)	Claire Wolfe, Director District XII (2020)
Gery Yearout, Vice President District XI (2018)	Matt Kaplan, Director District V (2019)
Arlyss Rothman, Secretary District IX (2019)	Kay Barthold, Director District XIII (2020)
James McFarland, Director District III (2021)	Christine Monsen, Director District XIV (2019)
Chuck Decker, Director District X (2021)	Ron Mucovich, Director District IV (2020)

### **Directors Absent:**

Toby Dicker, Director District VIII (2020)  
Hillery Trippe, Treasurer District VII (2018)

**Also Present:** Mutual Operations staff was represented by Paul Donner, Director of Mutual Operations; Rick Chakoff, Chief Financial Officer; Clayton Clark, Building Maintenance Manager; Kelly Mattison, Board Services Coordinator; Rebecca Pollon, Landscape Manager. Melissa Ward Esq. with Hughes Gill Cochrane & Tinetti was also present.

## **Members' Forum**

Residents were afforded the opportunity to express their general concerns and make comments. The topics discussed in members' forum included: the Project 27 revote, reserves/financials and borrowing, and the CC&R vote.

## **Approval of Meeting Minutes**

President Bank asked for any corrections and/or additions to the following minutes:

Project 49 Ballot Count Meeting.....	December 7, 2018
Regular Meeting.....	December 10, 2018
Executive Session Meeting.....	December 10, 2018
Project 34 & Project 38 Ballot Count Meeting.....	December 20, 2018

The aforementioned meeting minutes were approved with one addition to Regular Meeting minutes on December 10, 2018.

**Moved, Seconded, Carried 10-0**

## **President's Report**

No report was presented.

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## **Secretary's Report**

No report was presented.

## **Treasurer's Report**

No report was presented.

## **Budget and Finance Committee Report**

No report was presented.

## **Building and Maintenance Committee**

No report was presented. All Directors received a copy of Clayton Clark's monthly report indicating the ongoing construction projects in all TWCM Projects.

## **Landscape Committee**

Director Yearout announced that the Board of Directors approved the Terra Landscape contract in the amount of \$885,696 during the Executive Session held on December 10, 2018 for a one-year contract pending review each year for another year up to 3 years.

Quarterly evaluations will be conducted with Terra for pruning, lawn care, plant health, fire break clearance, and tree trimming with a score of 1-5. Rebecca Pollon will assist in setting standards. The review team will consist of Rebecca Pollon, Steve Ormond, Paula Erickson, and Floyd Yearout. They will conduct a walk around quarterly and score the crew and company.

Director Yearout and Rebecca Pollon explained to the board the optional additional scope of work that could be added per project on Organics. Each Project Director will have to review their budget and decide within two weeks if they want the add-on. The base rate of the contract is about a 5% increase per project and the average cost for the organic add-on per project is an additional 10%.

## **Governing Documents Committee**

Director Bank reported that the committee will be meeting next on January 22<sup>nd</sup>. Director Bank read over SB1016 (insurance coverage requirement change on EV-dedicated TOU meter) and SB261 (email consents and 28 day comment period for adoption of policies) to discuss how these changes may affect the governance of the Mutual.

## **Alterations Permit Application Review Committee**

No report was presented.

## **Communication Committee**

No report was presented.

## **Emergency Preparedness Committee**

Director Rothman announced that there will be a meeting held at the end of January, Date to be determined.

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### Old Business

- a. **Latest Update on Governing Documents:** The GRF Board has approved terminating the establishing agreements for 5 projects and the 6<sup>th</sup> project is expected to be approved at the next GRF board meeting at the end of this month. It was announced that the Board approved binding ADR in front of retired judge Ellen James of JAMS for an election challenge.
- b. **2019 Legislative Changes That Affect TWCM:** This item was deferred as it was previously covered in the Governing Documents committee report.

### New Business

- a. **Project 49 Re-Vote Ballot Count Results:** A secret ballot in the matter of a re-vote on whether to adopt the proposed Master CC&Rs in Project 49 was mailed on October 30, 2018 for a vote of the membership. Ballots were opened during an Open Ballot Count Meeting on Friday, December 7, 2018 at 10:00 a.m. in the Board Room at Gateway. (1001 Golden Rain Road, Walnut Creek, CA 94595)

The quorum requirement set in the current governing documents requires a supermajority (75%) approval of the members of Project 49 for adoption (i.e., at least 60 out of 80 members must vote "For"). A majority (more than 50% but less than 75%) approval of the members of Project 49 for adoption will allow the project to petition the superior court for approval of the Master CC&Rs pursuant to Civil Code section 4275 (the section of the Davis-Stirling Act which authorizes the petition process where supermajority approval is required by existing CC&Rs but only majority approval is achieved).

**The following is a report prepared by the Inspector of Elections:**

**Total Ballots Received: 69**  
**Total Invalid Ballots: 5**  
**Total Valid Ballots: 64**

**Total Votes For: 52**  
**Total Votes Against: 12**  
**Number of Manors: 80**

**The re-vote for adopting the Proposed Master CC&Rs has: FAILED (to receive Supermajority)**

The election and election results were certified by John McDonnell who served as the Inspector Elections for P49.

The vote did achieve majority approval, allowing the Project to join the petition group requesting approval by the court.

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### **b. Project 34 and Project 38 Ballot Count Results:**

#### **Tabulation of Ballots for Project 34 Re-Vote on Proposed Master CC&Rs**

A secret ballot in the matter of a re-vote on whether to adopt the proposed Master CC&Rs in Project 34 was mailed on November 15, 2018 for a vote of the membership. Ballots were opened and tabulated by Inspector of Elections Richard Fong.

The quorum requirement set in the current governing documents requires a supermajority (75%) approval of the members of Project 34 for adoption (i.e., at least 8 out of 10 members must vote "FOR").

**The following is a report prepared by the Inspector of Elections:**

**Total Ballots Received: 9**

**Total Invalid Ballots: 0**

**Total Valid Ballots: 9**

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**Total Votes For: 9**

**Total Votes Against: 0**

**Number of Manors: 10**

**The re-vote for adopting the Proposed Master CC&Rs has: PASSED**

The election and election results were certified by Richard Fong who served as the Inspector Elections for Project 34.

#### **Tabulation of Ballots for Project 38 Re-Vote on Proposed Master CC&Rs**

A secret ballot in the matter of a re-vote on whether to adopt the proposed Master CC&Rs in Project 38 was mailed on November 15, 2018 for a vote of the membership. Ballots were opened and tabulated by Inspector of Elections Richard Fong.

The quorum requirement set in the current governing documents requires a supermajority (75%) approval of the members of Project 38 for adoption (i.e., at least 63 out of 84 members must vote "FOR"). A majority (more than 50% but less than 75%) approval of the members of Project 38 for adoption will allow the project to petition the superior court for approval of the Master CC&Rs pursuant to Civil Code section 4275 (the section of the Davis-Stirling Act which authorizes the petition process where supermajority approval is required by existing CC&Rs but only majority approval is achieved).

**The following is a report prepared by the Inspector of Elections:**

**Total Ballots Received: 63**

**Total Invalid Ballots: 1**

**Total Valid Ballots: 62**

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**Total Votes For: 57**  
**Total Votes Against: 5**  
**Number of Manors: 84**

**The re-vote for adopting the Proposed Master CC&Rs has: FAILED (to receive Supermajority)**

The election and election results were certified by Richard Fong who served as the Inspector Elections for Project 38.

The vote did achieve majority approval, allowing the Project to join the petition group requesting approval by the court.

- c. Appoint Inspector of Elections for P51-1 & P51-2:** A recommendation of Richard Fong was made by Director Trippe. A motion was made to appoint Richard Fong as the Inspector of Elections for the P51-1 and P51-2 re-vote on the proposed master CC&Rs. **Moved, Seconded, Carried 7-0-3, Directors Wolfe, Mucovich, and Monsen abstained**
- d. Appoint Inspector of Elections for P36:** A recommendation of John McDonnell was made by Director Monsen. A motion was made to appoint John McDonnell as the Inspector of Elections for the P36 re-vote on the proposed master CC&Rs. **Moved, Seconded, Carried 9-0-1, Director Wolfe abstained**
- e. Appoint Inspectors of Elections for P27:** A recommendation of John McDonnell was made by Director Bank. A motion was made to appoint John McDonnell as the Inspector of Elections for the P27 re-vote on the proposed master CC&Rs. **Moved, Seconded, Carried 9-0-1, Director Wolfe abstained**
- f. Summary of GRF Ad Hoc Tech Committee Report to GRF Board made on 1/8/19:** Director Monsen gave a summary of a long report given to the GRF Board on January 8, 2019 by the Ad Hoc Tech Committee which included recommendations that were highly recommended, recommended, inevitable, and already funded.

### **Next Board Meeting**

The next Regular Meeting of the Board is scheduled for Monday February 11, 2019 @ 9 a.m. in the Gateway Board Room.

### **Adjournment**

There being no further business, the Regular Meeting of the Board was adjourned at 10:33 a.m. and the Board moved into Executive Session.

### **Executive Session Summary**

An Executive Session was held immediately following the regular meeting where the Board held a member discipline hearing, reported on legal issues, and considered late fee waiver

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requests.

**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.

A handwritten signature in blue ink that reads "Kelly Patterson". The signature is written in a cursive style with a long horizontal flourish at the end.

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**Assistant Secretary**

Third Walnut Creek Mutual