

# THIRD WALNUT CREEK MUTUAL

REGULAR SESSION MEETING MINUTES OF THE BOARD  
MONDAY, OCTOBER 10, 2016 AT 9:00 A.M.  
PEACOCK HALL (GATEWAY)  
1001 GOLDEN RAIN RD., WALNUT CREEK, CA 94595

## **Call to Order**

President Yearout called the Regular Meeting of the Board of Directors of Third Walnut Creek Mutual to order at 9:00 a.m. on Monday, October 10, 2016.

## **Roll Call**

### **Directors Present:**

Gery Yearout, President XI  
Judy Bank, Vice President XV  
John McDonnell, Treasurer X  
Jane Norbeck, Director District IV  
Jean Faszholz, Director District XII  
Carol Keating, Director District IX

Toby Dicker, Director District VIII  
Jack Case, Director District V  
Walt Braun, Director District XIII  
Christine Monsen, Director District XIV  
Victor McPhun, Director District V

### **Directors Absent:**

Kathy Poling, Secretary III

A large number of Mutual members were also present.

Mutual Operations staff was represented by Paul Donner, Mutual Operations Director; Rebecca Pollon, Landscape Manager; Will Kim, Board Services Coordinators.

## **Approval of Meeting Minutes**

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

Regular Meeting of the Board .....August 8, 2016  
Executive Session of the Board .....August 8, 2016  
Executive Session of the Board .....September 22, 2016

There being no corrections, the minutes were approved as submitted.

Moved, seconded, carried 11-0

## **Members' Forum**

Residents were afforded the opportunity to express their general concerns and make comments. The following topics were expressed by Residents:

- Displeasure with current vendors contracted to complete work inside the Mutual and a request that the Board evaluate current vendors and look into contracting new vendors
- A request that the Board assess the procedure initiated by Mutual Operations Division (MOD) regarding owner billable repairs/work

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- A request that the Board deny the Comcast phone service package at \$20 a month per manor and two (2) DVRs for \$9 a month per manor for the entire Mutual
- A request that the Board accept the Comcast phone service package at \$20 a month per manor
- A request that all members be involved during the policy formation process and to contact Project representatives with individual member concerns
- A member disputed the Mutual's requirement to obtain approval of 67% of the project owners before an owner can be granted permeant exclusive use of common area.
- Concerns over increasing legal fees
- A request that drastic changes not be implemented, during the upcoming amendment to the Mutual's governing documents
- Director Dicker was praised for her prompt response time and the Board was thanked for their volunteer service
- A member presented the formation of a residents' advocacy program to address bills charged to the Mutual by the Mutual Operations Division (MOD)

### **President's Report**

The following topics were presented by President Yearout during the Presidents' Forum:

- As of 2006, Civil Code §4600(a) indicates owner approval requirement is not discretionary; since the Mutual's Policies or CC&Rs do not currently specify a different percentage, the Mutual is obligated to obtain the approval of 67% (2/3) of the project owners before an owner can be granted permeant exclusive use of common area. Boards cannot give an owner exclusive use of the common areas.
- Nixle provides local emergency notification alert services. Mutual Presidents' are in the process of testing the text alert service system.
- The Board will look into the best method for gauging the memberships majority opinion regarding the Comcast phone service package

### **Secretary's Report**

No report was presented.

### **Treasurer's Report**

The Treasurer's Report was presented by Treasurer McDonnell as follows:

- The beginning balance as of 7/29/2016 was \$23,304.78
- The ending balance as of 8/31/2016 was \$19,087.02
- The Aging Report reflects amounts owed the projects for overdue coupon payments and late fees. The amount owed to all projects as of 8/31/2016 amounted to \$5,177. This is down from \$7,791 as of 7/31/2016.
- The Owner Billable Report reflects amounts owed all the projects for overdue payments that are billable to owners for work done to their manor for work not covered by the coupon. The amount owed to all projects as of 8/31/2016 was \$54,359. This is up from \$50,308 as of 7/31/2016

### **Budget and Finance Committee**

No report was presented.

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## **Building and Maintenance Committee**

The Building Maintenance Committee report was presented by Director Braun as follows:

- Director Case and the Architectural Committee provided the Maintenance Committee with a number of requested changes to the Architectural Standards, that will be reviewed at October 28<sup>th</sup> Building Maintenance Committee Meeting.
- Due to time constraints, plans for protection against rodent intrusion will be discussed at the November 14<sup>th</sup> Board Meeting.

## **Landscape Committee**

The Landscape Committee report was presented by Director Faszholtz as follows:

- The Mutual has had some issues with Raccoons ripping up turf/grass for grubs. The Mutual Operations Division (MOD) proposed treating the area to remove the grubs that may deter Raccoons from returning.
- If you have any landscaping complaints, please contact your Project Director for assistance.

## **Governing Documents Committee**

The Committee agreed on a Mission Statement. The goal is to be as inclusive as possible while creating a dynamic group committed to achieving the goal of updated, useful and helpful CC&Rs for the Mutual. In order to make the best decision/selections, the Board has tasked three (3) Directors with the duty to evaluate and interview prospective volunteers for the Governing Documents Task Force.

## **Alterations Review Committee**

Director Case informed the Board of a homeowner request to install a Wayne Dalton Garage Door, not an Amarr Garage Door as indicated in Item No. 6 of TWCM's Roll-up Garage Door Standard. The granting of the variance to Item No. 6 will be considered by the Alterations Committee using the homeowner's letter and contractor/manufacture's data.

Director Faszholtz made a motion to waive the 67% (2/3) membership vote requirement, indicated in Civil Code §4600 regarding Alteration Permit Application No. 38848 and grant the exclusive use easement to install roof top Solar Panels.

Moved, without a Second the motion did not move forward

## **Audit Committee**

No report was presented.

## **Communication Committee**

No report was presented.

## **Emergency Preparedness Committee**

The membership was invited to attend a seminar titled Pets in a Disaster that will be held on Thursday, October 13, 2016 at 9:30 a.m. in the Fireside Room.

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### **CC&R Update**

A motion was made to approve the following mission statement for the organization and selection of the CC&Rs Revision Task Force, which will report to the Governing Documents Committee: *With the assistance of Third Walnut Creek Mutual's (TWCM's) contracted law firm and Mutual Operations Division (MOD) Staff, to develop and propose, for the approval of TWCM's Board and members, CC&Rs for all members which are updated, relevant, consistent and compliant with current California Law.*

Moved, Seconded, Carried 11-0

### **Encroachment Issues: Built Out Rooms (enclosed living spaces)**

The Board presented and discussed the issue of existing built out room (enclosed living space) encroachments into common areas throughout Third Walnut Creek Mutual (TWCM).

A motion was made to approve the waiver of any action against owners who have built out rooms into common areas prior to 2006, after obtaining Board approval, a TWCM Alteration Permit and a Building Permit from the City of Walnut Creek.

Moved, Seconded, Carried 11-0

A motion was made to approve the waiver of any action against owners with built out rooms into common areas that were completed by the original developer/builder and do not exist in the original building blueprints or TWCM's governing documents.

Moved, Seconded, Carried 11-0

A motion was made to approve the waiver of any action against owners who have built out rooms into common areas after 2006, after obtaining Board approval, a TWCM Alteration Permit, a Building Permit from the City of Walnut Creek, but did not obtain the required 67% (2/3) membership vote.

Moved, Seconded, Carried 10-0-1, Director Bank Abstained

A motion was made to enforce action against owners who have built out rooms into common areas after 2006, that did not obtain Board approval, did not obtain a TWCM Alteration Permit, and did not obtain a Building Permit from the City of Walnut Creek or a 67% (2/3) membership vote, also known as "land-grabs."

Moved, Seconded, Carried 9-2, Director Case & Director Monsen voted No

### **Members' Forum: Proposed Policies**

Residents were afforded the opportunity to express their concerns, make comments regarding Policy 59: Owner-Initiated Alterations, Policy 61: Solar Energy Systems and Policy 64: Power Sources for Electric Automobiles. Due to time constraints, the Board was unable to accept Residents' comments regarding Policy 93: Rules for use of Storage Containers.

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### **Policy 59: Owner-Initiated Alterations**

The Board reviewed and discussed proposed Policy 59 regarding Owner-Initiated Alterations. A motion was made to approve Policy 59 as presented.

Moved, Seconded, Carried 11-0

### **Policy 61: Solar Energy Systems**

The Board reviewed and discussed proposed Policy 61 regarding Solar Energy Systems. Tabled, pending additional review and discussion by the Board.

### **Policy 64: Power Sources for Electric Automobiles**

The Board reviewed and discussed proposed Policy 64 regarding Owner-Initiated Alterations. A motion was made to approve Policy 64 as presented.

Moved, Seconded, Carried 8-3, Director McDonnell, Faszholz, & McPhun voted No

### **Policy 93: Rules for Use of Storage Containers**

Tabled, due to time constraints the Board was unable to discuss Policy 93: Rules for Use of Storage Containers. Policy 93 will be discussed during the next Board Meeting.

### **Comcast: Phone & DVR Services**

Tabled, the Board has been tasked with the decision to accepting or denying the Comcast phone service package at \$20 a month per manor and two (2) DVRs for \$9 a month per manor. The plan is available to the Mutual through December 31, 2017. At this time, the Board will not make a decision until additional review, clarification, and information is obtained by the Board.

### **Next Board Meeting**

The next meeting will be held on Monday, November 14, 2016 at 9:00 p.m., in the Gateway Board Room.

### **Adjournment**

There being no further business, the regular meeting of the Board was adjourned at approximately 12:40 p.m.

### **Secretary's Certificate**

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



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**Assistant Secretary**

Third Walnut Creek Mutual

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An Executive Session was held following the open session at 12:55. Topics included the following:

- Lease Extension Request (File No. 03-037)
- Late fee Charge Waiver Request (File No. 03-038)
- Dispute of MOD Charges (File No. 03-026)

With no further business to discuss, the Board adjourned the Executive Session at 1:39 a.m.