

# THIRD WALNUT CREEK MUTUAL

REGULAR SESSION MEETING MINUTES OF THE BOARD  
MONDAY, APRIL 10, 2017 AT 9:00 A.M.  
GATEWAY BOARD ROOM  
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.

## **Roll Call**

### **Directors Present:**

Gery Yearout, President XI  
Kathy Poling, Secretary III  
Walt Braun, Director District XIII  
Jane Norbeck, Director District IV  
Jean Faszholz, Director District XII  
Arylss Rothman, Director District IX

Judy Bank, Vice President XV  
John McDonnell, Treasurer X  
Jack Case, Director District V  
Toby Dicker, Director District VIII  
Christine Monsen, Director District XIV  
Victor McPhun, Director District VII

**Also Present:** Mutual Operations staff was represented by Paul Donner, Mutual Operations Director; Rick Chakoff, Chief Financial Officer; Will Kim, Board Services Coordinator.

## **Approval of Meeting Minutes**

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

Regular Meeting of the Board .....March 13, 2017  
Executive Session of the Board .....March 13, 2017

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

Moved, Seconded, Carried 12-0

## **Members' Forum**

Residents were afforded the opportunity to express their general concerns and make comments. The following topics were expressed by Residents: landfill bins, composting, solar energy systems, pots outside front door, elevator safety and maintenance, Comcast phone lines, and recycling.

## **President's Report**

President Yearout reported that the following topics were discussed at the last Presidents' Forum:

- Rossmoor residents may sign up for the Nixle mass notification/communication system by visiting the Rossmoor website at Rossmoor.com
- The unsafe nature of black mold was discussed. It was reported that there is no national standard when addressing black mold. Emphasis was placed on proceeding with clearance testing to acceptable levels when black mold is located.

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## **Secretary's Report**

No report was presented to the membership.

## **Treasurer's Report**

Treasurer McDonnell presented the following Treasurer's Report:

- The Third Walnut Creek Mutual maintains a checking account at City National Bank.
- The beginning balance as of 1/31/2017 was \$20,424.97
- The ending balance as of 2/25/2017 was \$26,426.86
- The Aging Report reflects amounts owed the projects for overdue coupon payments and late fees.
- The amount owed to all projects as of 2/28/2017 amounted to \$11,387.35
- 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 2/28/2017 was \$94,950.97

## **Budget and Finance Committee**

No report was presented to the membership.

## **Building and Maintenance Committee**

Director Braun provided the Building Maintenance Committee report. He reported that depending on the weather, the Asphalt Repair Program will start in April.

## **Landscape Committee**

Director Faszholtz reported that the landscapers successfully raked up leaves before the arrival of the heavy rain storm, preventing potential flooding into buildings. The irrigation system is currently off, but is being check and monitored, and now is appropriate time of year to replace dead or dying shrubs.

## **Governing Documents Committee**

Director Bank reported that the Committee reviewed and discussed the mutual-wide cost for using project electricity to charge golf carts in project owned carports, which will be presented under New Business. A Maintenance Matrix is being prepared and will be included with the revised CC&Rs.

The task force and committee members have received a first draft of the Amended and Restated CC&Rs. The directors on the task force have also received a draft Amended and Restated Bylaws. The Committee has asked all facilitators to set up meetings with their group members to review, discuss, and provide written recommendations, changes, or additions to the CC&Rs. Thereafter, comments from facilitators and the second draft of the CC&Rs will be reviewed by legal counsel. Then, the following membership education process will begin:

- Sending copy of draft documents to all members with cover letter of explanation
- Posting draft documents on Rossmoor website
- Articles in Rossmoor News

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- Meetings within projects with the assistance of task force members
- Mutual wide meetings that include task force members

### **Alterations Review Committee**

Director Case reported that homeowner of Account No. 17779 corrected their noncompliant window alteration by installing new windows in accordance with current TWCM Architectural Standards.

### **Audit Committee**

Director Dicker reported that the Annual Audit Meeting was held on Tuesday, March 21<sup>st</sup> at 10 a.m. in the Gateway Board Room. Bong Hillberg Lewis Fischesser (BHLF) was represented by Mr. Bong and Mr. Hillberg. The meeting was open to the membership and the following topics were discussed: scope of the audit, process, and cooperation received from the Mutual Operations Division (MOD). MOD & the Mutual were commended by BHLF for their internal financial controls.

### **Communication Committee**

Director Poling reported that she will continue to provide articles to the Rossmoor News reporting highlights from board meetings. If a committee has a subject they would like feedback on, an article in the Rossmoor News is a great way to accomplish this task.

### **Emergency Preparedness Committee**

No report was presented to the membership.

### **Encroachment Issues: Exclusive Use Common Area Landscaping Areas**

Enclosed herein as "Attachment 1," the *Resolution of Third Walnut Creek Mutual Regarding Exclusive Use Common Area Landscaping Areas* was reviewed and discussed by the Board. A motion was made to adopt the *Resolution of Third Walnut Creek Mutual Regarding Exclusive Use Common Area Landscaping Areas* on the 10<sup>th</sup> day of April, 2017.

Moved, Seconded, Carried 9-2, Directors Poling and Monsen voted no, Director Braun was absent during the motion

The Board discussed concerns and ways to address exclusive use of common areas when 67% (2/3) approval of project owners was not obtained nor was prior approval of the Board obtained. A motion was made to have owner installed plantings encroaching into common area without approval of the Project Director and Landscape Supervisor or without a permit removed at the owner's expense.

Moved, Seconded, Carried 11-0, Director Braun was absent during the motion

### **Solar Energy Systems: Project 39**

The Project 39 ballot to prospectively approve the grant of exclusive use common area for the installation of solar panels on Common Area roofs will require eighty-eight (88) yes votes to pass. The ballots were prepared and submitted to the membership on March 20, 2017. The ballot envelopes will be opened by the Inspector of Election at the open meeting that will be

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held on April 24, 2017 at 10:00 a.m.

### **Block Environmental: Maintenance Contract**

Tabled, pending additional review and discussion by the Building Maintenance Committee and follow-up information from Building Maintenance Manager Clark.

### **Maintenance Standard No. 1021: Exterior Pipe Chase Installation**

The following maintenance standard was reviewed and discussed by the Board:

*Standard: Owner Responsibility: Prior to installation of the chase, the entry hole to the structure for the pipe or tubing must be filled with a durable, non-shrink substance such as plumber's dough or expandable foam to prevent vermin from chewing on the opening and getting into the wall. The top of the chase should be sloped so as not to collect water or serve as a ledge. The entry to the chase and any abandoned entry points must be filled with a durable, non-shrink substance such as plumber's dough or expandable foam and steel mesh prevent access by vermin. Pipe chases must be painted to match the existing structure.*

A motion was made to approve *Maintenance Standard No. 1021: Exterior Pipe Chase Installation* as submitted.

Moved, Seconded, Carried 12-0

### **Maintenance Standard No. 1019: Exterior Paint Color Selection Process**

The following maintenance standard was reviewed and discussed by the Board:

- *Director notifies all members of an entry of a planned rehab along with the plan to select colors for the siding and trim, and requests those interested in serving on a paint color selection committee to contact the director.*
- *Director appoints a number of members of the entry to the paint committee and announces the members of the committee to all entry members and encourages them to provide comments to and ask questions of the committee.*
- *The paint committee meets with the MOD staff and paint supplier representative to develop a recommended color palette selection and presents the selected palette at a meeting with the Director and all interested members of the entry.*
- *The paint committee will meet with the condo owners of the entry/building to select body and trim colors from the approved palette. The condo owners will be provided with color boards and/or other such aids to assist in the selection process.*
- *Director will review and approve makes the final determination of the palette and notifies members of the plan forward.*

Tabled, pending additional review and discussion by the Board.

### **Waiver of Garage Door Standard: Project 49**

The board was informed of a request to install a Wayne Dalton Garage Door, not an Amarr Garage Door as provided in Item No. 6 of TWCM's Roll-up Garage Door Standard. The

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granting of the variance to Item No. 6 was reviewed and discussed by the Board.

A motion was made to approve the variance request to Item No. 6 of TWCM's Roll-up Garage Door Standard that would allow the installation of Wayne Dalton Roll-up Garage Doors in Project 49.

Moved, Seconded, Carried 11-0, Director Braun was absent during the motion

### **Approval of Audited 2016 Financial Statements**

A motion was made to approve the audited 2016 financial statements completed by Bong Hillsberg Lewis Fischesser (BHLF).

Moved, Seconded, Carried 12-0

### **Approval to Use Project Electricity to Charge Golf Carts**

The Board reviewed and discussed the mutual-wide cost for using project electricity to charge golf carts in project owned carports. With the assistance of PG&E, it was determined that the approximate cost to charge an electric golf cart is approximately \$120 annually or \$10 per month per golf cart. Project 42 has implemented a "cart barn." Thus, the members in Project 42 are exempt from the \$120 fee.

A motion was made to implement a fee of \$120 annually per golf cart to the owner as an additional charge on the coupon, excluding the members in Project 42.

Moved, Seconded, Carried 10-0-2, Directors Dicker and Braun abstained

### **Next Board Meeting**

The next meeting will be held on Monday, May 8, 2017 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 11:15 a.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 11:30 a.m. Topics included the following:

1. Owner Billable Hearing: Account No. 15482
2. Noncompliance Hearing: Account No. 10571
3. Noncompliance Hearing: Account No. 11752
4. Late Fee Waiver Request: Account No. 15128
5. Window Exception: Account No. 18005
6. Legal Status Report
  - a. Account No. 14890
  - b. Account No. 12730
  - c. Account No. 16677
  - d. Account No. 17954

With no further business to discuss, the board adjourned the Executive Session at 12:25 p.m.

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## Attachment 1

### **RESOLUTION OF THIRD WALNUT CREEK MUTUAL Regarding Exclusive Use Common Area Landscaping Areas**

- A. WHEREAS, Third Walnut Creek Mutual ("Mutual") has in the past allowed its members to apply for Board approval of Exclusive Use Common Area landscaped areas adjacent to their separate interest Manors (formerly called "private gardens" but called "EUCA Landscaping Areas" herein); and
- B. WHEREAS, *Civil Code* § 4600 was recently amended to require approval of sixty-seven percent (67%) of the members of a common interest development for grant of exclusive use of any portion of the Common Area to a member, which makes it difficult and expensive to approve new EUCA Landscaping Areas; and
- C. WHEREAS, the Mutual previously adopted new landscaping guidelines which require the use of drought-tolerant plants in order to conserve water and promote efficient landscape maintenance; and
- D. WHEREAS, some previously approved EUCA Landscaping Areas are poorly maintained, constitute a nuisance, are aesthetically displeasing, and detract from the harmonious appearance of the Mutual; and
- E. WHEREAS, monitoring and enforcement of the EUCA Landscaping Areas has become a burden to some District Directors and Landscaping Representatives; and
- F. WHEREAS, the inspection and transfer process has become difficult to administer, due in part to administrative practices which are unclear and potentially inconsistent; and
- F. WHEREAS, the Board of Directors now believes that for the above stated reasons, EUCA Landscaping Areas are no longer necessary to the best interests of the Mutual,

NOW THEREFORE, the Board of Directors of the Mutual hereby RESOLVES:

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1. The Mutual will no longer accept applications for new EUCA Landscaping Areas or approve new "private gardens." Individual requests for grants of EUCA pursuant to Civil Code section 4600 will be considered only for those applications which do not require member approval pursuant to Civil Code section 4600(b);

2. Upon transfer of title, all EUCA Landscaping Areas and former private gardens shall revert to control of the Mutual and the EUCA Landscaping Areas shall be brought into compliance with the standard Mutual landscape maintenance plan and shall be maintained by the Mutual as Common Area. Sellers shall be responsible for the cost of restoring the former EUCA Landscaping Areas to standard Mutual Common Area, as determined by the Mutual after pre-sale inspection;

3. Mutual legal counsel is authorized to prepare an updated EUCA Landscaping Area Policy reflecting this policy clarification; and,

4. Mutual legal counsel is authorized to revise the Mutual administrative forms used for EUCA Landscaping Area (former Private Garden) Agreements and inspections upon transfer of title, so that they are consistent with this Resolution.

THIS RESOLUTION IS ADOPTED THIS 10<sup>th</sup> DAY OF APRIL, 2017.

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By: *Kevin Yearout*  
Its President

By: *Kathleen Postleup*  
Its Secretary