

Fourth Walnut Creek Board Minutes  
Special Meeting – Policy Committee  
Date: December 17, 2020

Location: Zoom

**Call to Order:** The Meeting was called to order by President Vicki Swisher at 9:00 AM.

**Roll Call:** Vicki Swisher, Linda Brown, Pamela Ovalle, Carolee Perrich, Sheldon Schwartz

A quorum was present.

**Residents Forum:** No residents attending the Zoom meeting had any questions or comments for the Board.

Prior to progressing to Old Business, Ms. Swisher requested that the Members of the Board approve the imposition of a lien on parcel 186-110-051-7 in the amount of \$14,780.55. Linda Brown moved that the Board approve the imposition of this lien as described immediately above. The motion was seconded by Mr. Schwartz and unanimously approved by the Board.

**Old Business:** Policy Updates by the Policy Committee

- The Board unanimously approved the appointment of Janet Seldon to the Policy Committee of the Fourth Walnut Creek Mutual.
- The Policy Committee reviewed the hierarchy and status of current Fourth Mutual policies. Discussion included the following:
  - Ms. Swisher noted that the By-Laws are currently being revised by Adams Stirling, the counsel for the Mutual. By-Laws generally are focused on describing how the Board conducts the business of the Mutual. Changes to the By-Laws require the vote of the Mutual membership. If counsel makes changes to the By-Laws that conflict with CC&Rs, but are in compliance with the law, they may be implemented before revising the CC&Rs.
  - If a change is made to the Mutual policy that is in agreement with the law but not with the CC&Rs of the Mutual, the law prevails.
  - There are provisions in the By-Laws and CC&Rs that are outdated and in conflict with current law.
  - A revision of all of the provisions of the Mutual’s Policies was undertaken in 2016 but was never finalized although some of the revisions did receive legal review.
  - Ms. Swisher mentioned that she has cut and pasted information from the 2016 revision to the current draft Mutual Policies so the Policy Committee will have a “starting point” for its Policy Review.
  - Ms. Swisher noted that the Policy Committee can also reference Davis Stirling, other Mutual Policies (excluding those of co-ops) and, if necessary, governance documents from other Leisure World sites in Southern California.
  - Ms. Swisher is asking the committee to revise and issue all of the Fourth Mutual policies at the same time and not do it in a piecemeal manner. At the end of the process there should be one complete document that will be sent out for legal review ultimately to the residents.
  - There are certain sections of the policy sent by Ms. Swisher that have been reviewed several times since 2016 but nothing was finalized.
- The Policy Committee established the following path forward:
  - Send all comments to Ms. Swisher for consolidation. Need to take into consideration the law and higher levels of governance.
  - Use the Davis Stirling website as a resource.

- Ms. Swisher will send a spreadsheet template that shows law, CC&Rs, By-Laws, existing Policy, and proposed Policy. This is a useful tool for comparing what is being proposed vs. the various categories in the template.
- Once the information is added to the spreadsheet it can be used to organize policy updates, keep track of differences between governing documents, and establish talking points for the next meeting. This would be the most organized way to tackle this.
- Ms. Seldon asked if members of the committee can talk with our attorney as we consider changes to the Policy. Ms. Swisher said that only Board can talk to counsel.
- Ms. Swisher suggested that a sections or sub-section of a policy will be worked on by one committee member. Each person will select the section on which they want to work.
- The WORD document distributed by Ms. Swisher for today’s meeting is completely different from current Fourth Mutual policy. It was initially prepared in 2016. Subsequent Boards have used this 2016 document to develop additional proposed changes. The task of the Policy Committee is to compare the document provided by Ms. Swisher to the existing policy, other Mutual governance documents, and the law. Then make changes that may be appropriate.
- The following suggestions were made by Ms. Swisher:
  - Everyone should read the front page of the WORD Policy Document. Ms. Swisher has expanded the language to better conform to Government Code Section 12956.2. This paragraph states the Fair Housing rules regarding restrictions that cannot be placed in the Policies.
  - Do not spend time on Table of Contents. It will be updated at the end of the revision process.
  - Review the Preface. Ms. Swisher has not made any changes.
  - Items will be added to the Definition section, as necessary. Section 10.6 (Election Policy) has definitions. We can remove definitions from Section 10.6 and put the definitions under Definitions at the front of the Policy. Normally, definitions are stated at the front of the document not in the individual sections. If there are terms used in the Policies that are capitalized but not in the definitions, it means that the definitions can be found in the By-Laws or CC&Rs. If you have a definition of something in the CC&Rs you do not repeat the definition in the By-Laws or Policies. Pull out definition pages in CC&Rs and By-laws to check with definitions in Policy.
  - You can reference a Section for the definition of a term rather than writing a long or complex definition in the Definition section.
- The Committee discussed the basis for a Designated Occupant since there is no information/definition about a Designated Occupant in the current Mutual Policies. Fourth Mutual has developed a Designated Occupant Form used by MOD Member Records. A Designated Occupant is considered the following:
  - Cannot be a renter.
  - A person who lives in a unit but does not own the unit.
  - They live in the unit for free AND the owner does not occupy the unit.
  - In order for the Designated Occupant to use the facilities at Rossmoor, the owner must give up his/her right to use the facilities.
  - The GRF Designated Occupant form states that the owner relinquishes rights to facilities.
  - If property is held by Trust, the Trustees are the Designated Occupants.
- Assignment of sections for review:
  - Section 1.0 – Ms. Brown
  - Section 1.1 and Section 1.2 – Ms. Wehrenberg
  - Section 1.3 thru Section 1.10 – Ms. Ovale
  - Section 2.0 thru 2.2 – Ms. Perrich
  - Section 3 – Ms. Seldon

- Section 4 – Mr. Schwartz

**New Business:**

- 1301 Skycrest #4 – Ms. Swisher suggested that the Board consider invoking the Deductible Sharing Agreement for reimbursement of a share of the costs associated with the problems at this address caused by a drainpipe leak.
  - As of December 17, 2020, the total costs are approximately \$40,000. This includes the initial remediation of the damage caused by the drainpipe overflow of \$18,000 and the subsequent mold remediation project that, to date, which is \$22,021. It is noted that there are still some outstanding expenses so the final amount for the mold remediation is not yet available.
  - Should reimbursement be approved under the Deductible Sharing Agreement, the Fourth Mutual's total outlay for this event would be reduced to approximately \$11,294.
  - Mr. Schwartz made a motion to invoke the Deductible Sharing Agreement for the costs expended at 1301 Skycrest Dr #4 if the cost exceeds \$30,000. The motion was seconded by Ms. Ovalle and unanimously approved by the Board.
- A situation has arisen in which a resident is seeking approval to extend his patio across the back of his building. Ms. Swisher is bringing this issue up to the Board for several reasons. She does not have access to the Community Plans that were enacted in 1969. These plans define "manor" vs. "exclusive use" vs. "common" areas. To change a common area to an exclusive use common area requires a vote of the membership. The Board cannot give away common areas without the vote of the membership. The Community Plan should show exclusive and common areas.
  - The resident has assessor drawings that show the patio going all the way across the back of the manor. The assessor drawing has a note on it, however, that the drawing is not to be considered the same as the community plan.
  - The resident thinks that he is paying taxes on a portion of a patio that he does not own.
  - The Board needs to get a copy of the Community Plan. Ms. Swisher will attempt to get all of the Community Plans for the Mutual. The Community Plans are the only thing that will show the Board what a resident owns, what is exclusive use and what is common area.
  - Mr. Schwartz pointed out that the key word in tax assessments is "use". If you can use something, such as an easement, you can be taxed on that easement because you have use of it.
  - Ms. Swisher has building maps with designations of utilities, shut off valves, etc.
- Ms. Swisher noted that there is a person in the Mutual who would be willing to be on the Technology and Preventive Maintenance Task Force as a member but not as the Chairperson of the Committee. He has experience as a mechanical engineer.

A motion was made by Mr. Schwartz to adjourn the meeting as was seconded by Ms. Brown. The motion was unanimously approved, and the meeting was adjourned at 12:05 PM.

The next Special Meeting primarily for Policy Committee work is on January 6, 2021 from 1:00-4:30 PM.

  
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Anne Paone, Assistant Secretary  
Fourth Walnut Creek Mutual