

**FOXCLIFF ESTATES SOUTH HOMEOWNERS ASSOCIATION
BOARD OF DIRECTORS MEETING
July 12, 2004**

Officers & Directors Present: Calvin Kelly
Chuck Molzon
Bruce Kohl
Chris Read
Cindy Vogel
Carolyn Holland

Guests Bonnie Kohl
Angie Dice
Bob Altizer
Art Brill

Legal Counsel Rod Bray

Meeting Called to order 6:05 p.m.

I. Call to Order- Welcome

Meeting called to order by Calvin Kelly.

II Review of Agenda

A. Additions to Agenda

Calvin stated he had made some changes to the agenda based upon an e-mail from Cindy. He asked each member look it over to see that all their action items were listed. He asked if there were any additions. Cindy asked the golf club rental deposit be added under clubhouse. Chuck asked that complaint tracking be added under Safety and Communications.

B. Approval of Agenda

Motion was made by Chuck and seconded by Chris to approve agenda as amended.

III Review of Meeting Minutes - April 2004 Supplemental, May 2004 & June 2004

A. Additions/Alterations to Minutes

Chuck made a motion and Chris seconded to approve the April 2004 Supplemental minutes as amended. Motion Carried. Calvin asked if there were any changes to the May 2004 minutes. Cindy stated that the word "maintain" be added to paragraph one, line four, Drainage ditch behind Engles' lot, to read "...association is to maintain common areas...". Chuck made a motion and Bruce seconded, to approve the May 10, 2004 minutes as amended. Motion carried. Calvin then asked for any changes on the June 14, 2004 minutes. Cindy stated that "Cindy is to contact SBC regarding installation" on page three paragraph four be omitted. Chris made motion and Cindy seconded to approve the June 14, 2004, minutes as amended. Motion carried. Carolyn stated that a new first page to the April minutes was distributed adding the two Reliable Net representatives last names.

IV Communications and Announcements

A. From the President

V Financial Report

Calvin presented a brief financial report and stated that there were no out of the ordinary expenses for the month. He stated we have not received an invoice this year from PAR Printing but would receive one soon, and also stated that we are running behind in collection delinquent dues. He noted that the

payments for most of the clubhouse improvements completed to date, including the tennis courts have been made. Calvin stated that he and Carolyn continue to work on preparing budget reports breaking down actual expenditures by line items. Calvin distributed his Excel budget spreadsheet and discussed it's content. The Board discussed the need for additional lien item information specifically tailored to committee budgets. Calvin reiterated that each director who has budget expenditures, has the primary responsibility for tracking their budget status. After continued discussion it was decided that Calvin and Carolyn would continue working providing additional detail reports for committees.

VI Committee Reports

A. Safety Committee

Complaint Tracking - Chuck asked if there was a procedure for tracking complaints. It was noted that the procedure has been to bring the complaint to board and then the board would discuss the means of responding. It was decided that the committee for whom the complaint would fall under would respond.

B. Roads Lakes and Common Areas

1. Bruce summarized his written committee report as follows:

Country Club Road: Insight Cable/ditch repair. (Discussed under legal issues).

Silting issues on big lake, near lot 525 – No update.

Road work: Road repair and paving will begin within the next two weeks. The parking lot crack sealing is scheduled for July 15, to be completed by 12:00. Bruce will attempt to confirm all activity timeframes on Tuesday or Wednesday. Bruce will also contact Wallace and Aecon with regard to submitting contracts or other paperwork for signature by Calvin and Chuck.

Road sign replacement: Calvin reported that the sign company will be completing the order soon and that he would all or email to check on the status this week. Bob Altizer agreed to help coordinate repainting of existing street signs.

Dry Hydrant location review: No activity on this task.

Drainage ditch behind lot 670 (Engles) and others on Sunderland – After the most recent heavy rains it was observed that the water in the named ditch appears to flow as well as it can, considering the current fall in the ditch. It does not appear as though the growth in the ditch hinders the flow of water to the creek. Bruce recommended that we do not spend Association funds for the express purpose of cleaning the brush from the ditch at this time, which received unanimous approval from the Board. Calvin stated that perhaps this ditch could also be addressed in conjunction with the future planned, but not yet scheduled drainage survey along Norwich Drive and immediately adjacent portion of Sunderland Drive. Calvin agreed to write Engle's a letter explaining the Board's decision.

Tree removal from common area – lot 814: Chuck confirmed that the tree in question has already been removed from this area.

Access to lake at Fox Ct E and Country Club Rd., adjoining lots 976, 975 and others: Greg Byers has indicated that the person who treats our lakes needs adequate access to these lakes. This access should allow him to put his boat into the lake, as this is how he treats the lakes for weeds. The lake adjoining lots 976, 975, and the others at that location, do access via the common area pathway that goes between lots 975 and 974. He used to access this lake using this area until he became stuck in the mud and suffered an expense to getting his equipment removed. He has indicated he will no longer treat that lake unless we can afford him access in a manner that will not cause his vehicle to get stuck when the weather has made the ground too muddy, or he will have to wait until the weather is dry enough to drive over the access lane. It is

suggested that it may be possible to put some kind of material, potentially stone, in this area so that he can have ready access without consideration to the condition of the access lane. Bruce will get a quote on the cost of placing stone in area for easier access for lake treatment.

Cindy inquired as to lot 535, a private pond, with regard to treating pond and who is responsible for mowing. It was determined that owner is responsible for mowing. Calvin to write Barco's regarding mowing.

C. Covenants & Restrictions

1. Unauthorized vehicle use – Additional discussion was had on the Road Use Rules specifically with regard to unlicensed drivers and unlicensed vehicles. The Board confirmed its unanimous decision that unlicensed drivers are not allowed in Foxcliff South at any time; un-permitted vehicles (e.g. vehicles that are not able to be licensed by the State and/or vehicles are permitted by the Association) are not allowed at any time; and golf carts are only allowed when driven by licensed drivers to and from golf course. Calvin will draft two letters for other Directors to review; they will be used as the first and second notifications of violations of the Road Use Rules. Rod Bray will also be given draft copies to review. The first letter will serve as a cordial “first warning” document that also communicates the policy. The first letter may or may not be preceded by a phone call to the parents of the violator. The intent of the second letter will be to note the continued violation, restate the policy, and communicate the possibility of enforcement action by the Board, up to and including suspension of PTA membership. If a third violation is noted, the matter will be given to Rod for action.
2. Bob Altizer stated that he had a meeting of the Covenant re-write committee on June 18th. Bob stated that they have gone over around 20% of the covenants at the first meeting and noted changes and will be meeting again on Thursday, July 15th. He stated that after five to six meetings there should be a first draft prepared and that they were probably six to eight months from having a rough draft for board to review.

D. Clubhouse, Pool and Tennis Courts

1. Cindy reported on the following:

The Diaper Deck has been purchased and installed in ladies locker room.

The pine trees near the pool have been removed and the remaining stone from the drainage project had been placed in the removal area to form a rockery.

The tennis court sign was moved to north end of courts for greater more visibility. Cindy indicated that she felt we did not need an additional sign. Board discussed a small sign being placed on the nets as a reminder to relax the nets after playing.

Clubhouse doors are still being left unlocked, specifically the east door to deck. Installing panic bar was briefly discussed although Cindy noted that they were rather expensive. Calvin will call Art Brill to remind him to lock any door that he uses.

Cindy reported that circuit breakers for the Lounge room air conditioner are weak and blow regularly during power surges as does the main breaker in the chemical room. Curry Electric recommends monitoring the situation and planning on replacement. Cindy will get cost for replacement.

Cindy also discussed the soda machine not taking dollar bills, stating that water from the overhead deck during the recent rains had likely caused the problem. She requested the purchase of corrugated for committee installation, to divert water away from the machine. Board agreed to allow purchase.

Cindy indicated that the committee is working on the 2005 budget and asked that directors and members advise her of suggestions.

Cindy reported that the chimney, the windowsill and the bridge masonry repair were complete. Construction of the retaining wall is also complete. Chuck inquired as to drainage tiles being installed by Mark Fletcher as part of his proposal. Cindy stated that she would confirm whether this was included.

An act of vandalism at the pool had occurred, a police report was filed and IPM was notified. Perhaps coincidentally unruly behavior at the pool by teenaged patrons occurred earlier in the day of the after hours vandalism. Although the behavior and suspension was documented in a report, there is no other information suggesting the two events were linked. Although less than \$100 in damage occurred a notable amount of time was spent by the lifeguards removing furniture from the pool.

Cindy discussed the cancellation of the clubhouse rental by the golf club and it was decided that the Board would take action after receiving some type of explanation from the club if they elected to request their entire deposit back.

Cindy reported that there was an old unused and unconnected water softener in the chemical room that she would like removed. She has spoken with the softener company and they will come over and consider removing it. The Board agreed that Cindy should consider no or low cost removal options.

The rental fee for the clubhouse offices was discussed, Cindy stating that she felt the rent, for 2005, needed to be increased. Use of the back office by directors for committee meetings or other Association business was also discussed. Cindy will coordinate with another realtor on getting a market "comp" on what a fair rate would be for rental. There was discussion with regard to the lack of signage in the front of the clubhouse identifying the Association in addition to the rental office. Calvin agreed to also discuss these issues with Art.

Calvin concluded the committee report by noting the poor condition of the clubhouse mailbox. Cindy will paint/touch up the box and if still doesn't look good, then we will consider purchasing a new one.

E. Building Control

Chuck summarized his written committee report as follows:

Construction of new homes within the neighborhood continues. We have had two homes completed and their Construction Requirements and Rules deposit returned. We have two other homes completed with the homeowners requesting return of their deposits. There is one set of plans being reviewed for approval. This home will be built on Lots 290/291. Specific activity for each construction site is outlined below:

- A. Lot 240/241 (Ratts): Steady progress. All drywall completed. Painting of interior walls well under way. Starting painting of trim.
- B. Lot 519/520 (Payne): Good progress. House substantially complete. Homeowners have moved in. Yard seeded. Will call to set up walk-through and return balance of construction deposit. Chuck stated that there was an issue of them working on Sunday and will assess a penalty of \$500.
- C. Lot 687 (Young): Based on telephone calls and documentation indicating that the Young's would be ready to start construction soon, allowed them to not remove drive. Young's to close on construction loan on Tuesday, 13 July. Mrs. Young dropped off changes to plans at Association office. Will restart the approval process. Chuck stated he had had Mark Fletcher to give us a proposal on covering over the driveway. He will review bid and accept

it with a date that if building has not begun by August 15th, then Mr. Fletcher will remove road.

- D. Lot 818 (Shaw): House complete, construction deposit refunded. Have started a deck without approval. They did advise the BCC they wanted a deck and I told them we needed a drawing, they started early.
- E. Lot 822 (Peal): Complete. Outstanding issue of non-conforming mailbox. We have their \$150 until they replace mailbox.
- F. Lot 830 (Ricci): Good progress. House framed and under tar paper. Sadler to handle marketing of home.
- G. Lot 863 (Spina): House started. Foundation poured. Block laid for crawl space. Slow progress.
- H. Lot 873 (Horrell): Complete. Outstanding issue of grading at front of yard. Current grading blocks flow of water off road. Homeowner advised that this must be corrected. Withholding \$500 until complete.
- I. Lots 290/291 (Renkel): House started. Lot cleared, foundation poured, laying block for crawl space. Did not install rock drive and portable toilet before starting. Resulted in gouges in road. Need input from roads if this requires repair. (OPINION: Gouges deep enough to allow potholes to develop in fall/winter/spring.) Paul to look at and let Bruce know.
- J. Lot 821 (Greer): Deck built. Appearance from the big lake is acceptable. Will monitor for any indication of silting into lake.
- K. 723 (Hammond) Brick mailbox built offsite and installed. Meets standards.

Interim Board Actions

We have had several actions over the past month requiring BCC action or input. These are outlined below.

- A. Lot 519/520: Payne's assessed \$500 for having contractor working on Sunday. Painter plus one or two others, for more than three (3) hours. Guidelines indicate \$500. Builder told me that Mr. Altizer had said it was okay for a contractor to work on Sunday as long as there were not a bunch of cars and a lot of noise. Spoke with Mr. Altizer and recalls saying that we would not object if the homeowner worked quietly on a Sunday cleaning up or painting or other similar quiet work.

New Proposals

Request Board input to changing the make-up of the BCC to a "citizen's" panel with Board oversight. This would limit the appearance/reality of a prosecuting attorney/judge/jury combination for assessments. Chuck stated he would like to engage the building monitors more in proposing assessments, and more responsibility for reviewing the plans.

Amendments to Construction Requirements

Chuck stated that all changes were sent back and have been approved. Chuck will send the final document to Carolyn so she can distribute.

Town and Country/Bank Lots Proposal

Art Brill made a presentation on behalf of Home Federal Savings Bank. He explained that the bank wanted to donate five un-buildable lots to the Association, stating that their other alternative was to let the lots revert back to Morgan County ownership for taxes. Art noted that in this situation we would lose our dues and the county might not provide maintenance on the lots. Calvin stated that he did not see in the proposal anything stipulating that the Association could not re-sell the lots in the future. Art confirmed that we could re-sell any of the five lots if we so chose. After some additional discussion with Art, it was decided that the Board would discuss further among themselves prior to the next Board meeting. Calvin stated that this would be an agenda item for next meeting.

F. Social Committee

Cindy stated that the chairman of the social committee would be gone for a month. Cindy also informed the Board that a family barbeque has been scheduled for Sunday, July 18th and made motion that board approve \$456.07 to purchase barbeque from Squealers. Chris seconded the motion, which carried.

Cindy inquired as to what budget line welcome committee purchases came from. Calvin stated we would look at this regarding future budgeting but right now they were likely noted under the Social Committee budget.

Cindy stated she had called Cinergy regarding the high cost of the parking lot lights. After some discussion it was decided that Cindy would call Cinergy and inquire about disconnecting two of the lights.

G. Association Office

Newsletter - Calvin stated that the newsletter would be picked up on Tuesday.

Chuck stated the deadline for the next edition is August 1st.

Directory – Bonnie Kohl delivered the new directory to the community.

Quarterly Taxes – All quarterly taxes have been prepared and filed with appropriate agencies.

E-mail – All e-mail addresses have been re-entered.

Jennifer Sadler ad – Carolyn and Chuck noted that Jennifer Sadler's ad in the directory was unsatisfactory and recommend that she be refunded for the cost of her ad. The Board agreed with Chuck's recommendation.

Association Office manager Job Description – Calvin noted the minor edits to the description circulated by email had been incorporated. After additional discussion a motion was made by Bruce and seconded by Chris to approve as amended.

Corporate Secretary – Calvin stated that a corporate secretary had not been elected during the February organization. After some discussion Chuck made motion and Cindy seconded to elect Chris Read as Corporate Secretary. Motion Carried.

VII Legal

(Legal report presented earlier in meeting to accommodate Rod Bray's schedule)

Rod reported on his collection efforts on our behalf stating he has written letters to several delinquent members and has noted on his calendar to call for direction from association on filing suit against them. Rod stated that he had received a response from only one delinquency, Smart Builders, stating that they no longer owned the property in question. He stated that he had checked the courthouse records and the property had been deeded to E. Knapp, LLC, in February of this year, for which he has a Noblesville, IN address. Carolyn also noted that property taxes are also outstanding for the lot. Carolyn reported that Mr. Lester has come in and paid his dues although we will not release the lien until the check has cleared the bank.

Rod responded to the Board's request for his opinion on whether the Association was responsible for putting in roads. He stated that Carolyn had provided him with additional information from the lawsuit the Association previously filed against the developer, and that the settlement dollars were for maintaining the existing roads and not for installing new roads.

Calvin asked about the status of the vandalism case from last winter. Rod stated he would check on it and let us know.

Calvin asked Carolyn about her findings with regard to utility easements. She stated that neither Insight Communications nor their predecessor, TCI, were named as having obtained an easement from Foxcliff South. The only two names listed as having obtained easement from Foxcliff South were Ameritech and Indiana Bell. However, the Recorder's Office stated that Insight had been named in other communities. Bruce noted that the plat reads illustrates a 15' utility easement along the roadway and he previously confirmed with Rod the utility easement stated on the plat was a general easement. Rod stated that the foregoing information might

change our position with regard to the drainage problem Insight caused but nothing relieves them (Insight) from the responsibility of exercising due care. Bruce stated he was meeting with Insight on Thursday, was optimistic about the upcoming meeting, and that they would put any prospecting agreement in writing.

Further discussion confirmed the understanding of where the road right-of-way extends. Bob Altizer stated that "road right-of-way" is 50' wide. He stated that in an example a road is 18' wide and in the center of the right-of-way, there would be 16' of right-of-way beyond the edge of the road. Chuck asked Rod if it would be his opinion, regardless of whether Insight is in the road right-of-way or utility easement that they have created a problem and they are legally obligated to correct it. Rod answered affirmatively. There was some question as to where side setbacks are, as the plat reads five feet and the covenants read seven and one half feet. Calvin asked Carolyn to reconcile what she found on the plat and with what the covenants state and forward to Rod to review for discrepancies.

The Board instructed Rod to file suit on the delinquent accounts on July 20th. Carolyn stated the sheriff sale on the Freeman property had resulted in Jim Vandembark purchasing the home. Vandembark is in the process of selling it to Diana Griggs, and she has agreed to pay the last six months of the dues for which she will be billed. Calvin asked Rod for an explanation on the procedure of how both tax sales and foreclosure sales are handled. Rod explained that how the proceeds are handled, stating that the Association is almost never in a strong position in situations where proceeds do not greatly exceed first liens on the property, and only if there is money left over, do we get our dues. Calvin will contact Jim Vandembark with regard to paying the \$200 dues.

Calvin stated that the board would be drafting a letter regarding unlicensed drivers and would like Rod to review before mailing it out.

VIII ACTION ITEM TRACKING

The Board discussed action items. Bruce Kohl read list of action items from previous meetings and noted items remaining open. Chuck will forward copy of the new action item list to all directors.

There being no further business a motion was made by Chris and seconded by Chuck to adjourn at 9:45 P.M.

