

BOD Indian River Farms
HOA Meeting Minutes
May 9, 2017

The meeting was called to order at 6:35pm. Board members present, Erick Kearns, Tonya Anderson, Janet Wilms, Cindy Rauch and Matt Merciez. In addition to homeowner attendance at the UPA office, a conference phone line was opened to allow homeowners to participate in the meeting via teleconference.

March BOD Minutes were approved with a motion to dispense of the reading and approve as written by Erick, Matt. Motion carried

Michaela reviewed UPA management report after motion by Erick/Matt. Motion carried

Motion to hear committee reports by Erick/Tonya. Motion carried

ARB committee: No one present and no report provided

Social committee: No one present and no report provided

Newsletter: Report provided by Diana Merciez.

Diana made a general call for articles and topics of interest to the community for the next newsletter. She requested submission of articles by May 15.

New Business opened at 6:40pm by motion from Erick/Tonya. Motion carried

Due to the resignation from the ARB by Ms. Najwa Wynn, we have one vacancy on the committee to be filled. Mr. Steve Bernhart had previously emailed Michaela at UPA to inform her of his interest in participating on the committee. Diana Merciez also expressed interest, however, she deferred to Mr. Bernhart given her current role serving as the Newsletter editor. No other names were submitted for consideration from the floor. Motion to appoint Mr. Steve Bernhart as one of three primary voting members of the ARB Committee made by Matt/Erick. Motion Carried. Motion to clarify the ARB Committee consists of three primary voting members who are Mrs. Rachelle Bradley, Mr. Javier Medina and Mr. Steve Bernhart, with the alternate member remaining as Mrs. Tina Sudduth, made by Erick/Matt. Motion carried.

Moved to Unfinished Business at 6:45pm by motion from Erick/Tonya. Motion carried

Michaela indicated there was a problem with the previous quote submitted from Playground Specialists for installation of rubber mulch into the current sandbox area of the playground. The quote received was for wood mulch, not the terracotta rubber mulch that is currently in place. The revised quote from Playground Specialists was considerably more expensive. Michaela secured a quote from Mid-Eastern Construction, Inc for 16 cu/yds of Terracotta Red Rubber crumb, to include delivery and installation to restore low areas to compliance and replace damaged filter fabric, for the total amount of \$7,958.00 Two additional quotes are still pending. It was noted that bulk rubber mulch can be purchased from home improvement stores in the area for an approximate cost of \$600 per cu/yds but homeowners would then need to be engaged for the installation. That cost equates to a little more than the currently received quote from Mid-Eastern Construction, Inc. Motion to table review of contract to install

additional terracotta rubber mulch to bring playground up to required depth until all three quotes are available for review by the BOD, by Erick/Cindy. Motion carried.

BMP maintenance discussion continued. Erick summarized the findings of the recent attorney consultation with Inman & Strickler. The attorney opinion found it is the HOA responsibility to maintain the maintenance easement around the BMPs. This easement is a 20 foot area from the waterline. The HOA has this responsibility per sections 4.1 and 8.2 of the Declaration and this responsibility cannot be turned over to the homeowners without an amendment to the Declaration. The HOA not only has the responsibility to maintain the easement, they have the authority to enter the easement for the purpose of proper maintenance, with due notice to the homeowner. The Rules and Regulations revision from May 2006, and from August 2016 were improper in that they are contrary to the Declaration. The association may not transfer the responsibility of maintaining the easement to the homeowner through a Rule and Regulation revision. It was acknowledged that the best guidance available from the City is the City's ordinance entitled Virginia Beach Storm Sewer System Discharge Ordinance, though the guidance is not specific. The City storm water management division has acknowledged the Ordinance lacks clear guidance. The City recommended review of the City's Landscape Management Division of the Department of Parks and Recreation entitled "Meadow Management". Inman & Strickler maintain in their opinion statement that the HOA must maintain the BMP in accordance with the city ordinance. Failure to maintain the BMP in accordance with the ordinance is a Class I Misdemeanor and each day is a separate offense with a fine of up to \$1000 per day. Michaela read section 8.2 of the Declaration addressing the notice requirements to homeowners. There was a suggestion that we provide education to homeowners about proper maintenance and use of the BMP. There was a previous article run in the newsletter but we can run that article again. There was a concern raised about homeowner liability for injuries that might occur during the bank cleanup and Michaela advised since the work would be done under contract by the HOA to a licensed and bonded contractor registered with UPA, that workers compensation insurance would be available and hold any liability concerns for injuries incurred while performing the contracted work. A homeowner stated that he noticed when the last round of storms came through the area a tree on the BMP bank across from his home fell down into the water, and the root ball dislodged and left a large chunk missing from the embankment. The BOD assessed that the first step is to remove the improperly executed rule changes from May 2006 and August 2016, and enact an enforceable Rule to support the Declaration and HOA responsibilities. There was a Motion to Strike Paragraph 13 of the Architectural Guidelines amended in May, 2006 and the August 2016 Rule 11 on Lakes and Water Bodies by Erick/Matt. There was a second Motion by Matt/Erick to utilize the wording provided by Inman & Strickler as a new Rule to replace the now stricken Rule 11 on Lakes and Water Bodies. The following was read x 3 by Matt:

The retention ponds are a part of the City's storm water management system and are within an impoundment easement shown on the subdivision plat which is to be maintained by the Association under the terms of the recorded Declaration of Restrictions (paragraph 4.1). There is also a 20' maintenance easement around the ponds as shown on the recorded subdivision plat. No landscaping of any kind shall take place on the sloped embankment of a retention pond/BMP or within 2 feet from the top of the slope. At no time shall any tree, bush, plant material, leaves, or other debris be disposed of in the BMP or be allowed to be deposited in the BMP. All owners are, by this rule, advised of a City of Virginia Beach ordinance which prohibits discharging

materials which are prohibited thereby into a BMP or into areas which drain into a BMP. See attached Storm Sewer System Discharge Ordinance.

The motion was approved by unanimous consent and carried.

There was additional discussion and debate raised by homeowners in attendance regarding the meaning of the word "landscaping".

There was a proposal that if the homeowners want to manage their BMP bank, they could organize an amendment to the Declaration and secure the necessary votes for approval of the amendment.

There was a suggestion to take a survey of all homeowners on the BMP to see who would be opposed to removal of the trees on their BMP bank versus who would not mind having the trees removed per the City and attorney's guidance.

There was discussion that the BOD needs to clarify how the BMPs will be managed, in terms of timing of the mowing/harvesting of overgrowth and woody growth.

There was a request to focus on the positive and feature a homeowner that does really well with maintaining their yard and planted landscaping and hardscape, to promote good practices and recognize hard work and success. This would build morale. Motion to have a landscaping contest 3 times per year April/May; June/July; August/September with Home Depot or Lowes gift card awarded in the amount of \$20 to one winner each session by Cindy/Tonya. Motion carried. This announcement will be added to the newsletter.

Motion to close unfinished business by Janet/Tonya.

Homeowner's Forum commenced at 8:03pm.

A homeowner inquired if there will be an advertisement placed for the upcoming garage sale. Cindy advised she had already placed at least 5 ads on free websites and posting boards. In addition the banner will be placed out on the Sunday prior to the garage sale date. It was felt this is sufficient advertisement.

A homeowner inquired if we had a new attorney representing the HOA. We did not have a letter of engagement with Sarah Palmiero (sp?). We have recently utilized the services of Inman & Strickler to render an opinion on the BMP maintenance issues.

A homeowner inquired if the HOA will pursue transition to a new lawyer given incorrect guidance provided by previous legal counsel on Paragraph 13 of the Architectural Guidelines amended in May, 2006 and the August 2016 Rule 11 on Lakes and Water Bodies. The BOD advised we would resolve the current issue on BMP maintenance with the assistance of Inman & Strickler then evaluate our options going forward.

A homeowner advised there are discount coupons for Accel Pest Control who offers a service to treat for carpenter bees, mosquito treatment, and other standard pest control services. They are offering a group discount rate if several homeowners want to schedule treatments on the same day.

Homeowner's forum closed at 8:10pm.

The open session of the meeting was concluded with a reminder the next BOD meeting is scheduled for July 11, 2017, and the conference phone line was closed.

Motion by Erick/Cindy to move to executive session at 8:15pm. Motion carried.

Motion by Erick/Tonya to close Executive session at 9:02pm. Motion carried.

Motion to adjourn meeting at 9:02pm by Erick/Tonya. Motion carried.