

The Village at Nags Head Property Owners Association

Board of Directors Meeting

November 7, 2014

The Village at Nags Head Property Owners Association Board of Directors met on November 7, 2014 at Village Realty. Annette Ratzenberger, Meade Gwinn, John Juzwiak, Mick Jernigan, Melvin Stone and Mick Jernigan were present. Courtney Fowler was present representing Village Realty.

Ms. Ratzenberger established a quorum and called the meeting to order. The Board reviewed the minutes from September 19, 2014 and on a motion by Mr. Juzwiak and a second by Mr. Stone, the minutes were approved as submitted.

ACC Hearing Update - Ms. Fowler updated the Board on the hearing letters that were mailed regarding architectural control matters. After Board discussion and on a motion by Mr. Juzwiak and a second by Mr. Gwinn, the Board unanimously agreed to follow up with owners as indicated below.

1. Captain's Watch, Lot 19 – Home, especially trim, needs painting – Owner has been working on home and slowly making progress as of 11-5-14. Send a letter informing owners that the Board has noticed that some progress has been made but the work must be completed by January 1, 2015.
2. Captain's Watch, Lot 7 – Home needs painting – Paint application received 10/9/14 and paint is complete. Send owners a thank you note.
3. Elliot Estates, Lot 4-1 – Needs pool fence landscape buffer – Owner will install buffer by 12-1-14 Send owners a letter that work must be completed by January 1, 2015 or a \$25 per day fine will be implemented.
4. Elliot Estates, Lot 4-2, 4-3, 4-4, 4-5 – Needs pool fence landscape buffer – Owner has hired a landscaper and buffer will be complete by 12-1-14. Send owners a letter that work must be completed by January 1, 2015 or a \$25 per day fine will be implemented.
5. Elliot Estates, Lot 4-6 – Needs pool fence landscape buffer – Completed as of 10-9-14 Send owners a thank you note.
6. Linkside, Lot 42 – Home needs painting – Paint application received 11-3-14 Send owners a letter that work must be completed by February 1, 2015 or a \$25 per day fine will be implemented.

7. Seaside, Lot 9 – Needs pool fence landscape buffer – Owner called 10-27-14 and will be planting Russian Olives (24 inches in height) which will be required 48 inches by summer. Completed 11-7-14 Send owners a thank you note.
8. Seaside South, Lot 17 – Home needs painting and driveway needs repairing (Bank owned) – Real Estate agent contacted Village Realty and is obtaining estimates to paint the house and clean up the landscaping. The ACC is going to provide clarification on what needs to be done to the driveway if anything. Send owners a letter that work must be completed by February 1, 2015 or a \$25 per day fine will be implemented. The Committee also recommends the remaining gravel be removed and seed or sod installed.
9. Seaside South, Lot 29 – Home needs painting and needs pool fence landscape buffer – Owner called again on 10-28-14 and did do some clean up in the spring as requested and noted at that time that they would be painting in the fall. Currently owner is working with a painter and will submit the application prior to the work beginning. Owner will also take care of the required landscape buffer on the side of his pool fence without screening. Send owners a letter that work must be completed by January 1, 2015 or a \$25 per day fine will be implemented.

The Board reviewed the updates from hearings that took place in July and on a motion by Mr. Juzwiak and a second by Mr. Gwinn, the Board agreed to send letters as indicated below.

10. Wedges, Lot 14 – The house has been power-washed but painting is happening slowly. Send owners a letter that work must be completed by January 1, 2015 or a \$25 per day fine will be implemented.
11. Seaside South, Lot 3 – The pool fence landscape buffer is still in the process of being completed. Send owners a letter that work must be completed by January 1, 2015 or a \$25 per day fine will be implemented.

Management Report (attached) – Ms. Fowler informed the Board that the one delinquent account (12727) had paid in full all but the attorney's fees. Ms. Fowler did not have that final legal fee total when the owner showed up. The total outstanding about in legal fees is \$311.00. The Board agreed that they were happy the owner paid the past due amount and would not need any more legal services from the Association's attorney on this matter. The Board asked Ms. Fowler to send the owner a statement with the legal fees on there and to try and collect what she can.

The Board discussed the property at 6307 S VA Dare Trail. The Board asked Ms. Fowler to contact OBX Bank, since Monarch Bank (the parent bank to OBX Bank) was the mortgage holder to see if they could provide any insight as to what is going on with the property and who is responsible for the maintenance. The Board agreed to continue to fine \$25 per day.

Ms. Ratzenberger updated the Board on the Carolina Water Service Meeting that took place in October. Overall the meeting was successful and CWS did have a plan in place to hopefully help address the plant odor even though the state had found the plant was functioning properly. Ms. Ratzenberger also noted that she introduced Mr. Juzwiak to Todd Kraft and David Ryan from the Town since she will no longer be serving on the Board.

Ms. Ratzenberger reminded the Board to keep in touch with the town on the drainage throughout the Village and the status of the weir that the golf course was supposed to remove.

Mr. Juzwiak informed the Board the walkway project was scheduled to begin on December 15th. There was going to be a meeting the following Wednesday with Quible and Ivan Sawyer to do a walk-through of the project site.

The Board reviewed the current financial statements. Ms. Fowler noted the expenses were in line with the budget and statements looked normal. The Board felt that the Accounts Receivable Report looked better than it had in quite some time.

Old Business – Ms. Ratzenberger brought up the use of fire pits within The Village and encouraged the Board to keep this item their radar. Currently, fire pits are not prohibited within the Town or The Village but the Association has created guidelines for the use of fire pits. Ms. Ratzenberger had asked Ms. Fowler to consult with the association's attorney on whether or not fire pits could be banned in the community or if they could be banned only for rental homes. Ms. Fowler will follow up with the attorney but noted she believed the Association could ban fire pits entirely but cannot create separate rules for homes that are in a rental program.

Mr. Riddick informed the Board that Lauren Hill from Piedmont Natural Gas was going to attend the annual meeting the following day and give a brief presentation to the owners.

Mr. Gwinn asked for an update on Ridges, 25. Mr. Juzwiak and Ms. Fowler noted that the north and south sides of the house have been repaired and windows replaced. All were pleased that progress had been made.

New Business – Ms. Ratzenberger noted that several owners had come to her upset over the "Private Property, No Trespassing" signs the golf course posted around the golf course. Ms. Ratzenberger encouraged the Board to be supportive of the golf course as it is very dangerous for people to walk on the golf course. The signs were posted for owners and guest's safety. The rest of the Board agreed.

Mr. Jernigan asked who was interested in taking over as President since Ms. Ratzenberger's term was expiring. Mr. Gwinn was recommended and he said he would be willing to serve as President. Mr. Jernigan stated he would be willing to serve as Vice President again and Mr. Riddick as Treasurer.

Mr. Gwinn informed the Board that he would like to create a Maintenance Committee to help keep track of the assets and reserve study to help guide the Board on what needs to be replaced and when. The Board agreed this was a good idea.

Mr. Gwinn thanked Ms. Ratzenberger for serving two years as President. He felt she had done a wonderful job and was a real asset to the Board. The rest of the Board agreed and thanked her for all her time and service.

With their being no further business, and on a motion by Mr. Gwinn and a second by Mr. Juzwiak, the meeting was adjourned.

Respectfully Submitted,

Courtney Fowler
Association Manager

The Village at Nags Head Property Owners Association
Management Report
November 7, 2014

Maintenance Items Completed – Regular light checks, light bulbs and lights replaced as needed, upkeep of beach and sound accesses, entranceways and dog stands.

- Hathaway Painting is still scheduled to paint the bathhouse in November
- The lights at the main entrance are dim. An electrician has come out and inspected the fixtures, wires, voltage, etc. and reported that everything was working properly. The Landscape Committee is obtaining a second opinion on the matter.
- Bathhouse is currently open Friday morning through Sunday evenings. The bathhouse will completely shut down after Thanksgiving.

Financials – The current financials are included in your meeting packet.

Legal Update

- Dixon – The attorney e-mailed on 11/3/14 that they have not received payment after sending the intent to foreclose letter and wants to confirm that you do want to proceed with foreclosure. The attorney noted “If so, please confirm the Board of Directors for the Association has voted specifically to proceed with foreclosure on the property referenced at the top of this email. Please respond by replying to this email so we have record for our file and proof to the Clerk of Court at the foreclosure hearing. By replying that the Board wants to proceed, the Board is appointing Hope Carmichael to serve as trustee to conduct the foreclosure per NC statute. Send an updated ledger if you want to proceed.”
- Moore – 7307 S VA Dare Trail – I asked the following questions as requested at the last Board meeting.
 - a. Who are the actual owners of The Marquis Company LLC? Per the Virginia Secretary of State, Andrea A. Moore is the Registered Agent but it does not list the members.

- b. Has the Marquis Company been discharged in bankruptcy? The attorney searched and found that Walter and Andrea Moore had been discharged on 2-24-14.
- c. Has the stay been lifted? Attorney Phil Paine is reviewing the matter now and will advise on how the Association should proceed next.

Carolina Water Service, Utilities Inc. Update – The meeting took place on October 13, 2014 and three representatives from CWS, several representatives from the Town of Nags Head and 16 owners were present. Even though the plant has been cleared by the state as not being in violation and operating appropriately, they committed to a few items that may help with plant odor. A third fan was ordered and will be installed upon arrival, cherry sticks were installed on 10/20 and they continue to evaluate a product called SR2 that they began using in October. Also, an engineer will be visiting the site to assess the operation of the plant and will advise on CWS on other possible improvements.

Drainage Ditch in Baymeadow – Management received a request from an owner in Baymeadow to have the large drainage ditch cleaned out again this winter. It was last done by Beach Mowing in the winter of 2011/2012.

Engineer for Sound Accesses – There has been no response from Ralph Calfee on this matter.

Seaside Walkway Project Update – Quible is working on obtaining building permits for the project. The town is requiring eight different permits since it is eight different easements. Ivan Sawyer is planned to begin the work after Thanksgiving since they are only replacing two walkways.

Ridges, Lot 25 Update – Progress has been made on this home since the last meeting although it has been slow.

**The Village at Nags Head Property Owners Association
Management Report
January 2, 2015**

Maintenance Items Completed – Regular light checks, light bulbs and lights replaced as needed, upkeep of beach and sound accesses, entranceways and dog stands.

- Bathhouse Painting is complete
- The lights at the main entrance are dim – This is on the Landscape Committee’s agenda for 2015

Financials – The current financials are included in your meeting packet.

Legal Update

- Dixon – Mr. Dixon paid off his back dues on 11-6-14 but still owes legal fees which total \$311.75. Ms. Fowler did credit his account \$185.60 in late fees due to the \$48.00 late fee being applied incorrectly. His current balance owed is \$126.15. Mr. Dixon said he would take care of it.
- Moore – 6307 S VA Dare Trail – ACC fines were applied for November and December since there has been no change to this home. Management did e-mail a contact at OBX Bank and after some research on their end, they said – *Monarch Bank only has a lien on the property which appears to be in second position. The Marquis Company LLC and/or the first mortgage lien holder would be responsible for the maintenance of the property. According to a recent deed of trust, it looks like the first mortgage holder was assigned/sold to Duetsche Bank on 12-19-13. Would the Board like to turn this over to the attorney to handle the condition of the home and collection of dues?*

Fire Pits – Management e-mailed Ms. Carmichael about whether or not the association could ban fire pits or prohibit them for rental homes and this is what she said. – *“The Declaration is silent as to rule making authority for the Board. The bylaws, specifically in Article IX, limit rule making authority to rules applicable to the common areas owned by the Association, the streets and utilities and services provided by the Association. There is no authorized rule making authority for use of the lots. Any use restrictions for the lots themselves, or the conduct of members on the lots, must be contained in the Declaration.*

The only possible source of authority to limit fire pits in the Declaration are the architectural control provisions in Paragraph C.(2) of the Amended and Restated Declaration. Other provisions of Paragraph C are very specific – swimming pools, landscaping, air conditioning units, etc. – and there is no specific mention of fire pits. The Board can control the aesthetics of a fire pit structure that is to be constructed by influencing the shape, location, dimensions, etc., but as there is no outright prohibition, it is my opinion that the Board or Architectural Committee cannot prohibit fire pits altogether. Further, if you are talking about the kind of fire pit that is portable and need not be a built “structure”, there is not authority whatsoever to regulate those items. Such a prohibition would require an amendment to the covenants to create a use restriction in the covenants.”

Engineer for Sound Accesses – Engineer Ralph Calfee responded with some drawings and recommendations on the north and south sound access which has been forwarded onto the Common Elements Committee.

Seaside Walkway Project Update – Building permits have been obtained, the area has been staked out and the project is on track.

Ridges, Lot 25 Update – The north and south sides are complete and progress continues to be made.

Website Update – Ms. Fowler and Ms. Battaglia met regarding updating the current website. Ms. Battaglia offered to contact several companies and obtain prices. Ms. Battaglia offered to help with the initial set up of the website and then Management will be responsible for quarterly updates.

E-mailing VNH Owners – A more user friendly distribution list has been created with e-mail addresses for all owners (329) that have submitted e-mail addresses for better electronic communication.

ACC Hearing Updates:

1. *Captain's Watch, Lot 19* –Lattice and trim need to be painted - Sent letter noting work should be done by 1-1-15. Owners called to say they have been working on home and are doing the work themselves. They feel the Committee should be satisfied with the work completed.
2. *Captain's Watch, Lot 7* – Complete
3. *Elliot Estates, Lot 4-1* – Needs pool fence landscape buffer – Sent letter asking work to be completed by 1-1-15. Owner e-mailed 12/28 and said as we discussed in October, they are obtaining estimates from contractors to have the buffer installed. The owner is requesting an extension of May 1st to have the buffer installed. Owners will be back in Nags Head in March of 2015 to finalize the project.
4. *Elliot Estates, Lot 4-2, 4-3, 4-4, 4-5* – Complete
5. *Elliot Estates, Lot 4-6* – Complete
6. *Linkside, Lot 42* – Home needs painting – Paint application received 11-3-14 – Sent letter noting work should be completed by 1-1-15. Ladder up and painting looks almost complete.
7. *Seaside, Lot 9* –Complete
8. *Seaside South, Lot 17* – Home needs painting and gravel needs to be removed from either side of driveway (Bank owned) –Original Twiddy agents listing property e-mailed end of November to say that bank responded and has hired a painter. Management asked them to fill out a completed paint application but one was never received. A new real estate agent (Stellar Properties) e-mailed December 18th that they were the new listing agent. Management informed them on where things supposedly were with the painting.

Unfortunately, all of this information was news to them. Agent offered to speak with bank and find out where the paint project stood.

9. Seaside South, Lot 29 – Home needs painting - Application submitted and approved at 12-15-14 ACC meeting

Updates from hearings that took place in July:

10. *Wedges, Lot 14* – Painting not complete – Letter sent that fines will begin 1-1-15 – Owner responded via voicemail on 12-29-14 that the contract is still in place with their painter but unfortunately the project was moving slower than they had expected as well. Owners apologized for delay but said the front of the house should be finished as well as the south side. Owner is asking for pictures and progress reports from contractor now.
11. *Seaside South, Lot 3* – The pool fence landscape buffer is not installed – Letter sent that fines will begin on 1-1-15. There has been no response from the owner. Fines will be implemented beginning January 1st.