

OCHL - 12 HOMEOWNERS ASSOCIATION

ARCHITECTUAL CONTROL COMMITTEE (ACC) MINUTES

ACC Members: Dani Folsom, Chair, Joe Rystrom, Secretary, MaryLynn Birney, Ahmed ASH Hussain, Michael McMillan, Mark Powers, Al Prescott (Windward Bluff Liaison), Sonu Lamba.

Wednesday, October 2, 2024

ACC Members in Attendance: Dani Folsom, MaryLynn Birney, Michael McMillan, Mark Powers, Joe Rystrom

Others in Attendance: Carol Tento

Meeting called to order at 6:09 PM by Dani Folsom

Approval of Minutes: Minutes for September 4, 2024 are APPROVED.

OLD BUSINESS:

1. Solar Panel Issue

The ACC briefly discussed updates; ACC had hoped to meet McNulty and his representative in November or December to finalize the issue. However, McNulty's representative requested an extension for meeting with ACC to postpone until January, due to representative having jury duty and McNulty scheduled for a surgical procedure. ACC granted the extension request. HOA attorney has sent a letter in reference, and has not yet heard back as of Dec 8. Meeting shall be scheduled for near the end of January 2023.

UPDATE 01/30/2023 The ACC met with the McNulty's and their representative Mr. Tousley on Mon, Jan 30, at 7:30 PM, at Rose Hill Center, to provide an opportunity to dialogue on the solar panel noncompliance issue. HOA legal counsel was also present. The meeting lasted for approximately 75 minutes, and both sides had an opportunity to present their case. At the end, Mr. McNulty agreed to submit a proposal to relocate the panels to the back of the home, and/or ground mounted panels by the end of the week.

UPDATE 02/06/2023 Email excerpt received from Mr. McNulty: I heard from Blossom Solar today. They are working on a secondary plan to modify the originally installed configuration of our solar arrays. The rooftop and ground options will need to be measured to see what will fit. I don't know when that might be happening, but they are working on it.

UPDATE 02/15/2023 McNulty updated Rystrom that the Solar Blossom rep is just now getting back to him, due to death in the family. McNulty also said the relocation of panels may necessitate replacing the roof. More information to follow.

UPDATE 03/01/2023 McNulty updated the ACC at meeting that he is still working on getting a bid and plan from Solar Blossom. Per McNulty, another solar panel contractor informed him it would cost \$20,000 to relocate panels and repair roof, and he is getting a bid and plan from this contractor as well. The Committee reiterated its position that it is in the best interest of both parties to resolve this matter without going through the costly arbitration process. McNulty said he would need more time to get plans and bids, as he and wife are leaving town for family reasons for three weeks starting Mar 3. McNulty said his neighbor, however, would continue getting plans and bids in his absence. Chair Folsom agreed to extend the date to April 1, for McNulty to submit plans to ACC to relocate or move panels, in accordance with HOA Solar Panel Policy. McNulty accepted.

UPDATE 03/01/2023 McNulty sent email to Folsom on March 1, after the meeting, with a single image as a proposal: front facing panels facing the street, to be moved to other front facing positions facing the street. This proposal is not in accordance with HOA Solar Panel Policy.

UPDATE 06/07/2023 McNulty was present to update that he has enlisted three solar contractors to assess removing the offending, street facing panels from his roof. Blossom, the installing contractor has ceased communication per McNulty. A second contractor quoted \$30,000 to remove the panels which included roof repairs but is not interested in the work at this time. A third contractor (1st Choice Electric) came back with the exact same solar design as is currently installed and ignored the HOA solar policy. McNulty informed that he has sent a letter to Kevin Britt that we need to go to arbitration.

UPDATE 07/19/2023 Solar panel issue status was discussed. HOA legal counsel requested statements from ACC board members. Discuss the tree trimming from the county perspective (Hussain). HOA Attorney requesting a written statement on where the solar panels need to be moved. Per WA policy, the Solar Panels cannot be above the roof line per Folsom.

UPDATE 08/16/2023 Arbitration requested by the solar panel owner. HOA has reviewed WA and Mukilteo related solar panel rules.

UPDATE 09/25/2023 Response sent from HOA legal representatives to McNulty legal representatives, in reference to his arbitration request / solar panels.

UPDATE 02/07/2024 Solar arbitration case is still pending. Date for the arbitration is to be determined.

UPDATE 06/05/2024 Folsom has submitted additional documentation, per request from HOA legal.

UPDATE 07/03/2024 HOA Officers are scheduled to provide depositions July 24-25.

UPDATE 09/04/2024 Both parties are submitting motions for summary judgment with reply briefs due late August.

UPDATE 10/02/2024

Solar Panel Policy Arbitration Final Judgement

- 1) The judge awarded the right to keep the homeowner's solar panel policies in place since an ACC application was given to the homeowner by a prior ACC member to fill out after the solar panels were installed. This gesture to provide an ACC application triggered a new 30-day notification period which was not responded to within that 30-day timeline due to an ongoing effort to put a solar panel policy in place and the resignation of key ACC and Board members during that time. Of note, this is the only house that will be grandfathered into this judgement. All other solar panel policy applications will follow the new HOA Solar Panel Policy.
- 2) The judge awarded attorney fees to each party since the Solar Panel policy approved by the HOA Board was not in conflict of current WA State solar panel policies. The financial exposure to the HOA for legal fees was \$1,000 since we had HOA insurance covering our legal expense.
- 3) The 5th Amendment of our CC&Rs which covered the new proposed HOA Solar Panel Policy was declared invalid since it was not approved by a majority of homeowners (89 homeowners was the minimum requirement for a majority vote). This Solar Panel policy is up for revote in conjunction with our upcoming 2024 Annual HOA meeting.

STATUS: CLOSED

2. Commercial Truck in Driveway on Bayview Dr.

02/07/2024 A homeowner on Bayview Drive was sent a compliance letter for parking a commercial truck in the driveway repeatedly for greater than 72 hours. Fines may begin in March.

UPDATE: 03/06/2024 Truck appears to move every 72 hours. Will research the details of our parking rules and fines.

UPDATE: 04/03/2024 – Mary Lynn offered to research and clarify current parking policy in CC&Rs, will send out to ACC team.

STATUS: OPEN

3. Bayview Playground

05/01/2024 An inspection of the swing set was performed after two concerns were registered with the ACC regarding safety of aging swing set. It was determined to be beyond repair due to age and

unsafe. The committee had previously obtained a quote to demo the set. A motion was made to award the work to a contractor and get the safety issue eliminated. PASSED.

UPDATE 06/05/2024 ACC is seeking bids for a swing set replacement.

UPDATE 07/03/24 Motion by Rystrom to award the purchase and installation of a new 3 bay swing in Bayview Park to GameTime - Great Western Recreation: Swing set \$8,088.00, Freight - \$2,208.23, Tax - \$1,060.00. Seconded by Birney. PASSED. Agreement with Windward Bluff contributes 20%.

UPDATE 09/04/2024 Swing set is scheduled to be installed on Sept 16-18.

UPDATE 10/02/2024 Swing set had some bare metal, probably during installation, and vendor ordered new swing hangers with new hardware to replace defective, awaiting installation. Both covered under warranty.

UPDATE 10/02/2024 Swing set has been installed and looks great. Neighborhood kids have already given the new equipment an inaugural swing.

Subsequent to installation, the swing set was discovered to have some bare metal, probably during installation, and vendor was notified. Vendor touched up bare metal, ordered new swing hangers with new hardware to replace defective, awaiting installation. Both covered under warranty.

STATUS: OPEN

4. Annual Meeting

06/05/2024 ACC discussed potential measures for annual meeting, which may include: update view policy, create artificial turf policy, update driveway parking policy, and recommendation on dues increase.

UPDATE 08/07/2024 Discussed potential dates for annual meeting, focusing on first week of November. Will discuss further in September.

UPDATE 09/04/2024 Discussed annual meeting date, and best times. All agreed to Wednesday, November 13, at Rosehill Community Center, Mukilteo.

UPDATE 10/02/2024 Discussion lead by Folsom to consider a fine for view obstruction and non-compliance, to CCR changes in reference to ACC responsibilities, for the 2024 annual meeting. This fine would facilitate and incentivize compliance in a timely matter. Members that are found to be impairing a protected view will still have the opportunity to present their case to the Board, before a fine is

imposed. ACC members were in concurrence and recommend the Board to include this new fine on proposed changes to CC&Rs for 2024 annual meeting.

Discussion lead by Folsom to incorporate the most recent adopted Policies by the Board, to add those policies to the CC&Rs. To include:

- 1) Expand the ACC Team from 5 to 7 positions to better balance the management of the HOA
- 2) Add a process for handling homeowner ACC Submission of Plans application that expands the response time, assesses a penalty if the homeowner does not comply with the ACC final determination within 30 days of such ACC final determination.
- 3) Prohibit the building of Accessory Dwelling Units (ADU's) on existing Homeowner's lots.
- 4) Add detailed Window Policy to the CC&R's.
- 5) Add detailed Solar Panel Policy to the CC&R's.

The Board also discussed adding two additional CCRs, with number seven (7) recommended by the ACC.

6) Transfer all reasonable attorney fees and arbitration fees to the Prevailing Party if Arbitration is pursued by any Party.

7) Add a new fine for view obstruction violation(s) which Homeowner has not resolved after the ACC has sent written notification to Homeowner and a hearing has taken place between the ACC and Homeowner.

After additional discussion, motion by Folsom to place the following CC&Rs on the 2024 ballot:

- 1) Expand the ACC Team from 5 to 7 positions to better balance the management of the HOA
- 2) Add a process for handling homeowner ACC Submission of Plans application that expands the response time, assesses a penalty if the homeowner does not comply with the ACC final determination within 30 days of such ACC final determination.
- 3) Prohibit the building of Accessory Dwelling Units (ADU's) on existing Homeowner's lots.
- 4) Add detailed Window Policy to the CC&R's.
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Seconded by Rystrom. PASSED.

STATUS: OPEN

5. View Issues

07/03/2024 Homeowner on Club House Lane asked the ACC to re-open previous view complaint of home below on Preswick Lane near Bayview. Stated trimmings of branches have re-grown into place, again partial blocking of view. ACC will further investigate and address as appropriate.

UPDATE 08/07/2024 Homeowner on Preswick Lane is looking into remedies, and should have additional information in September.

UPDATE 08/07/2024 New complaint from homeowner on 59th on neighboring home, golf course view.

UPDATE 09/04/2024 Homeowner on Preswick Lane, with an active view impairment against the property, homeowner, provided a printed presentation of what he has done so far to remedy the view complaint. The homeowner stated that there are other trees to the right and to the left of his trees that also block the view of the homeowner on Club House Lane and that it is not fair to be singled out. The ACC will coordinate with the Club House Lane homeowner to initiate a view impairment complaint against all offenders.

UPDATE 10/02/2024 New view impairment complaint from homeowner on 59th and St. Andrews Complainant has attempted to make contact with member potentially affecting the view, to no avail, and has requested assistance from the ACC. Birney and Rystrom performed a site visit on Sept 11, with printed photos. Homeowners declined to look at, or receive the photos, and stated that they will have their landscapes cut back some of shrubs blocking the views. Compliance letter mailed on approximately September 14, 2024.

STATUS: OPEN

NEW BUSINESS:

1. Third quarter site visit by APMI was on September 18. Thirty-seven violations overall, most with cans out and few landscape issues, peeling paint. Letters to go out mid-October.

Applications for Approval of Improvements received:

Backyard project on 59th - *denied* - Please resubmit with more detailed site plan and image of proposed building material.

Meeting adjourned at 6:47 PM by Dani Folsom.