

VILLAGE OF FOUNTAINVIEW COMMUNITY ZOOM MEETING  
MARCH 9, 2022

The meeting was called to order by Vice President Deborah Ingram at 6:44 pm.  
Roll call was initiated by Assistant Secretary Paula Kelly.

PRESENT: Bill Anderson, Karen Baker, Mary Davis, John Evans, Deborah Ingram, Paula Kelly, and Samantha Summers from FSR.

ABSENT: Carrie Bolen, Esther Boone, Mel Wenneman

ANNOUNCEMENTS

RECYCLING: Deborah Ingram said the City will be conducting an audit of the recycling bins. If inappropriate items such as plastic bags are found in the containers, the containers will not be emptied. Fines will be levied and passed on to the community. Also please remember to break down cardboard boxes.

COMMUNITY MEETINGS: These will resume in April at the Senior Citizen Center, but Zoom will remain available to those who don't wish to or cannot attend.

THANKS: Council would like to thank Bob and Mary Ann Brown of Building 3000 for helping to keep Fountainview grounds clean and trash free. When they walk the grounds, they pick up and dispose of any trash discarded on the property. Deborah Ingram encouraged all residents to follow the Brown's example and keep the community looking clean.

CONDOLENCES: Deepest sympathies are offered to Jessie Pitti Of Building 2000 who lost her husband, John, in January. Condolences also go out to the family of Naomi Stout in Building 3000.

SMOKING: There have been several complaints about residents smoking in the condo building hallways. Please be courteous to other residents and refrain from smoking in the hallways and remind guests to do the same.

FRAUDULENT EMAILS: Deborah Ingram said that someone has been impersonating her and sending out fraudulent messages and emails to Fountainview residents as if they are from her. The correspondence covers matters that she would never discuss publicly. Ingram said she does not speak for Council; that is Carrie Bolen's responsibility. If you receive an email from Ingram, a legitimate correspondence also will have Council members carbon copied. Ingram said that she is looking into legal action. If you receive a suspicious email from Ingram, please let her know.

TREASURER'S REPORT: John Evans gave the Treasurer's report. Karen Baker made a motion to accept the Treasurer's report as presented. Mary Davis seconded it.

VOTE: Anderson: yes; Baker: yes; Davis: yes; Evans: yes; Ingram: yes; Kelly: yes. The motion

passed unanimously. The report will be posted on the website.

VANGUARD: John Evans said the Vanguard account has a very low interest rate and should be moved elsewhere for two reasons. First, to obtain a higher interest rate. Second, so the VOF can have access to the account which is not possible now.

John made the motion: The Treasurer is hereby authorized and directed to promptly undertake, direct and effectuate the transfer, at the earliest possible opportunity, from the Association's VANGUARD mutual fund account to such recognized banking institutions and/or investment houses as may be able to receive and hold such funds pending the Treasurer's selection of a suitable plan of investment of such funds in a way that generates an improved return on investment superior to the present return generated by Vanguard, bearing in mind that the funds should be invested in insured accounts whenever possible; and, further all former Fountainview officers or council members with access to the VANGUARD account are hereby authorized and directed to cooperate with the Treasurer in every way possible to secure the prompt release, transfer and redeposit of the Association's VANGUARD funds at the earliest possible opportunity pursuant to the direction of the Treasurer.

Bill Anderson seconded the motion.

VOTE: Anderson: yes; Baker: yes; Davis: yes; Evans: yes; Ingram: yes; Kelly: yes; Carrie Bolen submitted a yes vote by proxy. The motion passed unanimously.

COMMITTEES: The committees have been posted on the bulletin boards and the website. The list was hand delivered to the villas and townhouses residents.

## PENDING BUSINESS

### SECTION 14.8 OF THE DECLARATION:

John Evans stated that Council had received a legal opinion (see the legal opinion letter from Richard E. Franta dated February 21, 2022 attached to these minutes) advising that Council should amend Section 14.8 of the Declaration in order to clear up the ambiguity regarding Council's spending limitations, and further to acknowledge that projects identified in an approved annual budget are also authorized without additional submission to the unit owners.

Following Mr. Franta's opinion, John Evans made the following motion: Pursuant to the authority granted to the Council by Section 35.4 of the Declaration, when in the judgment of the Council it is necessary to take steps to cure an ambiguity or correct an inconsistent provision of the Declaration, the Council may cure the said ambiguity or correct the inconsistent provision without the approval of the Unit Owners provided that the Council has received an opinion of legal counsel that such cure or correction is necessary; and, the Council having received

the opinion of legal counsel recommending and approving the amendatory language below, the initial paragraph of Section 14.8 of the Declaration Establishing a Plan for Condominium Ownership of Village of Fountainview Condominium is hereby deleted in its entirety and in lieu thereof, the following language is hereby inserted in its entirety as follows:

“ 14.8 At such time as the control of the Council shall be turned over by Declarant to the Association of Unit Owners as defined in the Code of Regulations and thereafter, as established in the Code of Regulations, then whenever in the judgment of the Council the Common Elements shall require additions, alterations or improvements costing in the aggregate in excess of Twenty-Five Thousand Dollars (\$25,000.00) during any period of twelve consecutive months, and not expressly a line item in an annual budget approved pursuant to Section (a) of Article VIII of the Code of Regulations, and the making of such additions, alterations or improvements shall have been approved following the procedure set forth in Section (b) or (c) of Article VIII of the Code of Regulations as applicable, the Council shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a Common Expense. Any additions, alterations or improvements expressly itemized in an adopted budget, or costing in the aggregate Twenty-Five Thousand Dollars (\$25,000.00) or less during any period of twelve (12) consecutive months may be made by the Council without the approval herein above described, and the cost thereof shall constitute part of the Common Expense. Subsections (1) and (2) of Section 14.8 remain as originally written and are unchanged by the foregoing.

Karen Baker seconded the motion.

VOTE: Anderson: yes; Baker: yes; Davis: yes; Ingram: yes; Evans: yes; Kelly: yes. The motion was passed unanimously.

**MOVE-IN, MOVE-OUT POLICY:** Deborah Ingram said the Council had received a rough draft of more revisions to this policy. Thanks to those who contributed ideas; some of which have been incorporated. Move in or out is defined as whenever any person causes the installation of furnishings at any unit, including but not limited to a bed, sleeper sofa, television lounge chair; such action constitutes as a move to the unit. Whenever an occupant of a unit causes furnishings to be removed in order to vacate the unit such as a bed, sleeper sofa, television lounge chair, such action constitutes a move out of a unit.

**PROPOSED RULES FOR MOVING IN OR OUT:**

- A signed acceptance of this agreement is required prior to either moving in or out.
- A move in or out must be scheduled at least 72 hours in advance with Samantha Summers at FSR; her number and email address will be provided.
- Move ins or outs are permitted only Monday through Saturday within the hours of 8 am to 5 pm. Moving is not permitted on Sundays or holidays. Holidays include New Year's Eve, New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day.
- Elevator pads will be installed.
- Residents will be given a temporary override elevator key; there will be a \$500.00 fine for loss of this key.
- All entrances except vestibule doors may be used, but at no time should any door be propped open and left unattended.
- No vehicles should be parked on sidewalks or in fire lanes, nor should curb cut-outs or driveways be blocked.
- Moving personnel will be respectful of VOF property and residents.
- Moving personnel will not leave behind boxes and packing material. Trash and recycling rules apply.
- Residents will be responsible for repair/replacement costs of damage to the common areas.
- Elevator use: whether to have a nonrefundable deposit for this still is open for discussion. However, this does not apply to first-floor, townhouse, and villa moves.
- For renters: all of the above will apply but also a signed copy of the lease and a photocopy of an ID will be provided to FSR.
- There will be a nonrefundable deposit of \$150 for each move in.
- On the form, residents must list their name, unit number, phone number, email, car make and model, tag number, and signature. There also should be a place for the landlord's signature.

There was some discussion about elevators pads; it seems that we do have some but not enough. John Evans also added there should be no distinction between residents and renters. He added that everyone needs to work through the property manager. In the past, when residents moved here, a one month's deposit was required. That requirement was lost when management companies were changed.

Based on the discussion of tonight, this issue will be discussed further before being brought up again to the community.

## NEW BUSINESS

**ASSISTANT SECRETARIES:** Mary Davis put forth a motion regarding increasing the number of assistant secretaries.

**MOTION:** Pursuit to the provisions of Section 5.1 of the amended and restated Code of Regulations of the Village of Fountainview Condominium Association for positions designated as Assisted Secretary are hereby created, have hold the same responsibility as the position of Secretary and further provided that they shall be empowered to act from time to time directed by the President or Vice President in the

event of the unavailability of the Secretary for any reason. Council members Karen Baker, Mary Davis, William Anderson, and John Evans are hereby respectfully appointed to the position of Assistant Secretary as the foresaid from the date hereof until December 31, 2022.

John Evans seconded the motion.

Deborah Ingram questioned the need for more Assistant Secretaries as the Council has Esther Boone, Paula Kelly, and Mel Wenneman. John Evans responded that if a Secretary was needed at this moment in the State of Delaware, none of the three are available to sign documents. Under the Code of Regulations, the Secretary cannot be the same person as the President or Vice President as the Secretary authorizes the President's signature; thus it must be two different people.

VOTE: Anderson: yes; Baker: yes; Davis: yes; Evans: yes; Ingram: yes; Kelly: yes. The motion passes unanimously.

CONDO GUTTER CLEANING: Bill Anderson said VOF is in the process of getting bids with Samantha Summers' assistance. One estimate was very expensive, but John Evans had suggested that a drone be used to assess possible problems with the gutters and the roofs so we are not being overcharged for the work. Anderson assumes that three bids on the drone will be required. Once an assessment has been made, the cleaning can move forward.

John Evans made the motion: That the VOF Council authorize the property manager to obtain three quotes on the drone service to do a gutter inspection. Bill Anderson seconded the motion.

DISCUSSION: Samantha Summers said she would research the drone service and get some bids. Evans can provide two names to Summers.

VOTE: Anderson: yes; Baker: yes; Davis: yes; Evans: yes; Ingram: yes; Kelly: yes. The motion passes unanimously.

LANDSCAPING CONTRACT: John Evans reported that the landscaping company, Premier, provides two services to the community – landscaping and snow removal. The service charge for both is as performed. The landscaping includes mowing, fertilizing, and weed control. The snow plowing includes clearing the entire parking lot and the side walks, and Premier arrives early to clear these areas.

POOL CONTRACT: The contract is with Neptune; the price is \$8400. Neptune stepped in last summer when the previous contractor defaulted, plus they obtained the pool cover.

Evans made the following motion: That the 2022 one(1) year contract with Neptune Pool Management for \$8,400 is hereby approved; and, the 2022 through 2024 landscaping/grounds keeping contract with Premier Landscaping Service, and the 2021/2022 through 2023/2024 Snow Removal and Surface Preparation Contract with Premier Landscaping Service is also hereby approved for the rates set forth therein; and, the President or the Vice President are hereby authorized to execute the foregoing contracts and to bind the Association therefore.

Mary Davis seconded the motion.

VOTE: Anderson: yes; Baker: yes; Davis: yes; Evans: yes; Ingram: yes; Kelly: yes. The motion passes unanimously.

CENSUS: Samantha Summers said FSR and the board have been discussing the FHA requirement and

the fact that the VOF is an age restricted community that a census is required every two years. A form will be sent out requesting the following information:

- A form of ID that verifies one's age. This could be a driver's license, birth certificate, or passport
- Contact information
- Address
- Phone number
- Email

Summers asked if the VOF wants to include vehicle and pet information.

Deborah Ingram said this was a good idea to include those last two pieces of information. Mary Davis said that in the past, this information which also included the pool waiver form was included in the welcoming packet. She thought this would be a good way to obtain the information. Ingram added that it would be good to remain in the welcoming packets in addition to the form.

John Evans made the motion: I move that we conduct a full fledged census as described by Samantha; that we include therein a census that includes pets or people in the unit, ages, and car information along with communication requirements of email and phone number.

Bill Anderson seconded the motion.

VOTE: Anderson: yes; Baker: yes; Davis: yes; Evans: yes; Ingram: yes; Kelly: yes. The motion passed unanimously.

OPEN DISCUSSION: Karen Baker said that she is having difficulty getting her clothes dried in the dryer. She has had service people out and bought a new dryer without any improvements. She has been told it might be the booster fan, but does not know who is responsible for this – herself or the condominium association. Bill Anderson has volunteered to look at Karen's dryer. Samantha Summers questioned if Karen had contacted Prism (Enterprises LLC), but Baker had not been successful in reaching them. If Anderson is unable to help Baker, Summers will put her in contact with Prism. Deborah Ingram had recently used Prism after the vent cleaning and was impressed by their work.

#### OPEN DISCUSSION FOR COMMUNITY:

JEANETTE ADAMS: Adams questioned why Karen Baker did not go through the management company first. Samantha Summers said that first it must be determined what the problem is. Adams questioned if the booster fan no longer worked, whose responsibility is it to replace it – the condo association or the resident's? Summer replied that the dryer vent is the owner's responsibility. Having the vents cleaned recently by the association was an exception, she added, as the Council considered it a safety concern and needed to be dealt with as soon as possible. Adams questioned if it can be expected to check that the vents will be operational before they are cleaned every three years. Summers said that a policy will be created to deal with the before and after of the next vent cleaning.

DENNIS DUCKETT: Duckett wanted to echo John Evans' comments about the move-in, move-out policy, and there should not be any difference between owners and renters.

DAVID DORR: Dorr expressed his frustration over the continued thievery in the community. It was three days in a row last week that items were stolen from him. As of this week, two items have been taken. Deborah Ingram said that Council is aware of the thievery and are working hard to rectify the situation. The police have been involved as well. She recommended that he keep making police reports.

ADJOURNMENT: John Evans made the motion to adjourn. Paula Kelly seconded it. The motion was passed unanimously. The meeting was adjourned at 7:58 pm.

Respectfully submitted,

Paula F Kelly

Assistant Secretary

**RICHARD E. FRANTA**

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February 21, 2022

Council of the Village of Fountainview  
Care of, JOHN FORD EVANS

By email to [johnfordevans@comcast.net](mailto:johnfordevans@comcast.net)

Re: *Response to Council Inquiry regarding Declaration Section 14.8*

Dear Council:

I have been asked to opine on what you regard as an ambiguity in Section 14.8 of the Declaration Establishing a Plan for Condominium Ownership of Village of Fountainview Condominium, Dated September 11, 2007, and of record at the Office of the Recorder of Deeds in and for New Castle County, Delaware, as Instrument No. 20070926-0085046. Section 14.8 provides:

**“At such time as the control of the Council shall be turned over by Declarant to the Association of Unit Owners as defined in the Code of Regulations and thereafter, as established in the Code of Regulations, then whenever in the judgment of the Council the Common Elements shall require additions, alterations or improvements costing in the aggregate in excess of Twenty-Five Thousand Dollars (\$25,000.00) during any period of twelve consecutive months, and the making of such additions, alterations or improvements shall have been approved by a Majority of the Unit Owners, the Council shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a Common Expense. Any additions, alterations or improvements costing in the aggregate Fifteen Thousand Dollars (\$15,000.00) or less during any period of twelve (12) consecutive months may be made by the Council without approval of the Unit Owners and the cost thereof shall constitute part of the Common Expenses.”**

Council is rightly concerned that there is no guidance relating to any need for Unit Owner approval of additions, alterations or improvements costing in the aggregate between \$15,000.01 and \$25,000.00 during any period of twelve (12) consecutive months. There also is no distinction between the need for Unit Owner approval of a specific addition, alteration or improvement, versus Unit Owner approval of an annual budget containing a line item for



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unspecified improvements during the fiscal year, in contrast to the maintenance, repair and replacement of common elements in discharge of the Council's statutory duty under Section 2211 (1) of the Delaware Unit Property Act.

Finally, the Declaration (including problematic Section 14.8) was drafted and recorded before Delaware's adoption of the Delaware Uniform Common Interest Ownership Act (25 *Del. C.* Chapter 81, known as "DUCIOA") and the Fountainview Amended and Restated Code of Regulations (the condominium's "bylaws") both of which provide a consistent procedure for approval of annual budgets, special assessments for expenditures not foreseen in the annual budget, and emergency special assessments. Neither DUCIOA nor the Fountainview Code of Regulations requires an affirmative majority vote of the Unit Owners for an annual budget, a special assessment, or an emergency special assessment to be adopted.

I have been asked by Council to opine on the reasonableness of Council's desire to make an amendment to the Declaration which would fix the void between additions, alterations or improvements costing between \$15,000.01 and \$25,000.00. I agree that the existing Section 14.8 in its present form is ambiguous, and hamstringing the Council's ability to discharge its statutory and contractual duties to the Unit Owners of Village of Fountainview. I also can see serious crises arising in the future due to the conflict between Section 14.8, and the procedure for Unit Owner voting on special assessments and emergency special assessments prescribed in Article VIII, Sections 8.1.2 and 8.1.3 of the Amended and Restated Code of Regulations (which tracks Section 81-324 (b) and (c) of DUCIOA).

Accordingly, it is my opinion that, pursuant to Section 35.4 of the Declaration, action by the Council to address the inherent ambiguity in Section 14.8 and the inconsistency of that Section with the Code of Regulations and statute is both necessary and appropriate.

Very truly yours,



Richard E. Franta

REF/skb

**“Whenever in the judgment of the Council the Common Elements shall require additions, alterations or improvements costing in the aggregate in excess of Twenty-Five Thousand Dollars (\$25,000.00) during any period of twelve consecutive months, and not expressly a line item an annual budget approved pursuant Section (a) of Article VIII of the Code of Regulations, and the making of such additions, alterations or improvements shall have been approved following the procedure set forth in Section (b) or (c) of Article VIII of the Code of Regulations, as applicable, the Council shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a Common Expense. Any additions, alterations or improvements expressly itemized in an adopted budget, or costing in the aggregate Twenty-Five Thousand Dollars (\$25,000.00) or less during any period of twelve (12) consecutive months may be made by the Council without the approval hereinabove described, and the cost thereof shall constitute part of the Common Expenses.”**