

Linwood Heights Board of Directors Meeting
Thursday, April 23, 2020
Virtual Meeting via Zoom

Attendees

Board members present: Adam Graff, president; Lillian Ostrach, secretary; Members at large: Janean Quigley, Jim Gibson, Wayne Stoltz, Odie Christensen, Bryan Randall

Board members absent: Larry Richardson, Mac Rominger

Property owners: Alan and Pat Purchase, Greg Hartmann, Kevin Gurney and Helen Rowe, Gisela Kluwin, Faun Nichols and Randy Schaal, Lisa and David Actor, Jennifer Graff

Call to Order – Adam Graff

Meeting commenced at 6:30pm MST.

Property Owner Concerns (if any)

None presented.

Appeal/Board Hearing – Clothesline

Adam summarized the CC&R violation of an installed clothesline for a property and the actions that have been taken up until this time, notably the initial appeal by property owners, legal opinion sought and provided by Mr. Tevis Reich, attorney, and Board response to the property owners. The property owners, Drs. Gurney and Rowe, made a presentation to the Board that recommended amendment, removal, or altering the CC&Rs to allow clotheslines in the community as line drying saves energy and is environmentally friendly. Drs. Gurney and Rowe were confident a solution exists that would allow for homeowners to line dry laundry while accommodating aesthetic concerns regarding clotheslines.

The Board discussed the presentation and some Board members expressed opinions that they do not have strong objections to clotheslines overall but there may be those concerned with aesthetics. This topic was also already on the agenda as an item of New Business, and the Board briefly discussed tabling the discussion to the annual meeting to include the greater community in the discussion. Adam reminded everyone that the immediate task was to determine whether the clothesline was in violation of the current CC&Rs, not whether the CC&Rs should be modified.

Motion to find that there is a violation of the current restriction (no clotheslines allowed) but the LH Board intends to look into amending the restriction on clotheslines; Wayne seconded. Additional discussion asking the Gurney/Rowe family how much of a hardship it would be to

remove the clothesline until the matter is reconsidered and the property owners mentioned they had not used it recently and it would not be a hardship to remove it. All Board members present voted in favor; motion approved.

Approval of minutes from 23 January 2020 – All

Motion to approve 23 January 2020 meeting minutes by Adam; seconded by Bryan. All Board members present voted in favor; motion approved.

Financial Report – Lillian in lieu of Mac

Mac was unable to attend the meeting and submitted the Financial Report via email prior to the meeting for Lillian to present. In summary, we still have a surplus for FY2020 but the typical fourth quarter expenses may exceed this surplus with limited income (usually disclosure fees). Should we have above average fourth quarter expenses (typically related to maintenance/cheat grass eradication and/or legal expenses) we can expect to exceed the "guaranteed" annual income from the annual assessments. The Third Quarter Financial Reports for the HOA were also submitted and are available upon request.

Motion to approve financial report provided by Mac and presented by Lillian by Odie; Wayne seconded. All Board Members present voted in favor; motion approved.

Maintenance Report – Odie

Jesse Gregg Park access

The Association lock was returned to the Jesse Gregg Park gate on April 1. Walkers, runners, bicyclists and dogs are enjoying the park in greater numbers this spring.

Storm damage to trees

Wet snows and winds over the winter brought down several trees, tree-tops and large limbs in the park - several across hiking paths and fence lines. These have been cleaned up.

Fences

The fences around Jesse Gregg Park are generally in good condition. There has been serious fence vandalism in the SE corner of the park; repair is complete with smooth wire fencing. (where fence crosses Matson Wash) some small openings left for people to get through it.

Park Toilets

The two toilets in the park are in generally good condition. First Class Sanitation pumped the vaults in October. Surfaces with animal damage will be repaired and repainted soon.

Dog Waste Stations

The dog waste stations throughout the community are emptied twice monthly by Deep Roots Landscaping. The contract with Deep Roots was renewed in March 2020.

Weeds

Weeds appreciated the late spring moisture and are thriving. We did not arrange for chemical treatment of cheat grass, because the effectiveness of the treatment is controversial, and I did not want crews out working this spring. Weeds are being controlled effectively with mechanical treatments. Example Mullein.

Roadway

Erosion of the roadway in Jesse Gregg Park is of concern. A resident engineer reviewed the condition of the road last fall and recommended work to be done on the few problem areas. We will get cost estimates when current stay-at-home guidance is lifted.

Additionally, some gravel is being spread on parts of damaged trail (e.g., around Wayne's house).

Pink tape ribbons have appeared in the park in various places (primarily at gates). Odie reports he has no idea what the pink tape ribbons are about and he didn't put them up.

Bryan asked what is going on with the barbed-wire covered gate on eastern side of the park. Odie noted that this section of fence and gate need repair and are on his to-do list.

Kevin Gurney thanked Odie for cutting up the fallen trees!

Firewise Report – Odie

National Wildfire Community Preparedness Day was to have been observed on Saturday May 2, 2020, with a volunteer community workday. In consultation with the Arizona Department of Forestry and Fire Management, we cancelled our event. We still hope to have a Firewise presentation at the Linwood Heights Annual Meeting in July - if that happens.

Fire season will soon be upon us; now is the perfect time to attend to making our homes and properties a bit more fire resistant. There are great resources available on www.linwoodheightsaz.org.

Old Business

Follow-up after assessment increase: Adam reported that the Board received numerous positive responses to the assessment increase and the community support was nice.

CC&R Enforcement: Adam reported that all of the letters, except that for the clothesline, resulted in compliance with CC&Rs.

New Business

CC&R amendment re: clotheslines

Per the earlier discussion, this topic is tabled for now.

CC&Rs need updating

Odie discussed that some of the LH CC&Rs are in conflict with current AZ law and statutes, and a question to the Board is should we have them reviewed by a knowledgeable person in whole to bring them with current law? Adam mentioned he is wary of using the Board's attorney based on cost since there have been several amendments, so a revision may be better served by consideration by the Board first. Several members mentioned that they don't believe major revisions to the CC&Rs are needed and that small changes over time are normal. Janean suggested that assigning each Board member a section of the CC&Rs to review is one approach. The Board agreed it would be worthwhile to ask the general community at the annual meeting their thoughts and perhaps get some help from the general membership. Jim recommended that it may be good practice to have the CC&Rs reviewed every decade to maintain compliance and agreement with state and city law, especially since we now know there are two sections that need revising.

Motion that the Board initiate a slow process of reviewing the CC&Rs to see if they warrant revision and what those revisions should be made by Odie; seconded by Bryan. Further discussion included that Lillian might have some contacts in her files from Cecelia that may be helpful, and Adam will assign all Board members sections of the CC&Rs to review. (No vote.)

Motion to have CC&Rs reviewed with an eye to updating them, with Adam assigning sections, by Jim; Bryan second. Additional discussion: Faun asked what two areas are not in compliance at this time? Bryan responded that the areas of the CC&Rs not in compliance with AZ law pertains to signs, specifically CC&R says only "For Sale" signs, AZ law allows both sale and signs, and political signs are protected by AZ statute for a limited time when related to an election. Odie also mentioned that the CC&Rs prohibit antennae (boosters) but the Telecommunications Act prohibits HOAs from limiting antennae or satellite dishes. All Board members present voted in favor; the motion was approved.

Online Board business documentation

Odie brought up that more Board business is conducted via email threads due to time limitations and now the social distancing required by the pandemic and wants to make sure the Board maintains the open meeting requirements. Lillian offered to add a section, "Business conducted electronically," to the following quarterly meeting minutes to maintain open meeting requirements. Lillian also raised the point that the Board should determine whether there are any legal requirements to conducting Board business electronically; for example, in her previous HOA only motions with a unanimous vote by all Board members were legally allowed to be passed using electronic communication.

Motion that Board business conducted electronically in between quarterly meetings will be recorded in the meeting minutes for the next quarterly Board meeting by Lillian; Janean seconded. Brief discussion about legal standing of HOA rules with respect to city, county, state statutes, and that a vote by the entire membership is required to amend a CC&R restriction. Also discussed that it probably would be best for the Secretary (Lillian) to briefly summarize the electronic correspondence as opposed to copy/pasting the entire email thread, but it will be at the Secretary's discretion. All Board members present voted in favor; motion approved.

Community mailing list

Lillian brought up that currently the community mailing list is not moderated, so any property owner on the list can send an email to the entire distribution list without requiring approval from someone on the Board. Although we haven't had any instances of inappropriate emails yet, it could happen and we should have measures in place to prevent that. Odie agreed that there should be a moderator to the property owners' mailing list because we need a filter, preferably the Secretary since that position also is the primary monitor of the LH email address.

Motion to add moderation by the Secretary to the property owner listserv so that a general reply-all to the listserv is not permitted and that any emails sent to the listserv should be released by the Secretary (Lillian) after correspondence and agreement with the Board President (Adam) by Odie; Bryan seconded. All Board members presented voted in favor; motion approved.

Dog event in Jesse Gregg Park

Bryan provided a summary of Andy Rusk's email regarding an incident Andy experienced in the Jesse Gregg Park with dogs off leash. Bryan discussed that no one should be bothered by anyone else in the park and that the Board could come up with some written guidelines to help people and perhaps publish or post some instructions. Lillian offered to draft a gentle reminder to the community about courtesy in the park for all types of recreation since more people will be using the park as the weather warms. There was discussion about leash laws and proper control of dogs, including how people should be respectful of others and perhaps put a leash on their dog if they see other people up there until the other people pass, maybe keep dogs on leash until getting to the top of the road. Janean brought up the possibility of posting a sign at both entrances with the basic reminders that would be included in Lillian's email for the Cheshire neighbors who use the park and won't receive the LH email.

Motion to have Lillian draft and send a gentle reminder email about appropriate park etiquette as well as look into making signs or a posting at park entrances to remind visitors by Lillian; Wayne seconded. All Board members present voted in favor; motion approved.

Political and advertising signs

Bryan brought up recent observations of political and non-political signs on a particular property and noted that the current LH CC&Rs are not compliant with the AZ statute. The Board had a lengthy email discussion regarding these signs, their legality, and how the signs disappeared for a time and then were observed again. The property owners, Alan and Pat Purchase, were in attendance at the meeting and stated their signs are not advertising, the signs are making statements about their opinions. They attended the meeting to make the Board aware that their signs were stolen twice and they find it interesting that their pro-life signs are being stolen in Linwood when a similar sign on N Peak View Drive is not. The discussion grew heated and the Purchases said they would keep their signs up until a notice from the Board is received for an alleged violation.

Motion to draft a violation letter to inform that political signs exhibited beyond the window allowed by AZ statute are in violation in case the signs are not currently there by Bryan; Jim seconded. Voting: In favor: Bryan, Lillian, Jim; Abstain: Odie, stating that signs are an issue that maybe could be charged about freedom of speech and freedom of expression, Janean, stating that these are not the only signs she's seen; Adam, Wayne. Discussion regarding equal enforcement of sign restrictions, making sure to be fair to both sides in particular for politically-charged ideas. Motion approved.

Additionally, Bryan mentioned the Board needs to determine whether a violation has occurred.

Motion to research about what constitutes an advertisement and to seek out an expert opinion that will incur a legal expense by Bryan; Jim seconded. All Board members present voted in favor; motion approved.

Trees in Jesse Gregg Park

Alan Purchase has noticed an increasing number of trees, especially young ones, that are dying in the park, some of them are falling over. Years ago when he addressed the Board about noticing dying trees and the trees falling down, he was told it's good for them to fall down for the animals. But we need to start thinking about taking care of the trees. Adam agreed that he has noticed it too and overall Odie is doing a great job. Perhaps we need to consider consulting an arborist in the future.

Annual meeting preparation: Elections

We need to prepare for the annual meeting and the elections that will take place at that time. Adam mentioned that five members have terms ending: Mac, Janean, Odie, Larry, and Wayne, and hopes that the current Board members will run again if they can. We will need to get ballots prepared. Wayne doesn't intend to run again and Mac has indicated he will be retiring as well. Randy Schaal asked how to get on the ballot and was told to email the Board email address and provide a one sentence statement; Randy said he would do that. The Board will wait until the

annual meeting to decide on a new Vice President and Treasurer unless any of the current Board members who do not have terms expiring wants to fill those roles. Odie mentioned we will need to consider health and safety in response to the current pandemic and we may not be able to hold the meeting in Jesse Gregg Park.

Building plan approval protocol

Lillian received an email requesting approval for new building plans on one of the recently purchased lots, and as she is new to the Board wanted to confirm what protocol was in place, if any. Adam mentioned that there is no formal clearance committee and that the CC&R has the minimum 2400sqft requirement and that the structure cannot be a manufactured home.

Schedule next meeting

The next meeting will be the Annual Meeting, to be held on July 18, 2020. Due to the ongoing COVID-19 pandemic, it may not be prudent to meet in person. The Board will evaluate whether it is safe to meet in person in the Jesse Gregg Park or whether the meeting should be held virtually to accommodate the health and safety of the LH community.

Meeting Adjournment

The meeting adjourned at 8:31pm MST.

Minutes prepared by Lillian Ostrach, Secretary.