

**VILLAGE WALK SOUTH  
BOARD MEETING MINUTES  
March 4, 2008**

**(Immediately following election of directors at Annual General Meeting)**

**1. ROLL CALL: Meeting called to Order at 8:00pm**

Robert McKinley  
Tom Collins  
Sandra Fontana  
Henry Schulte  
Stephen Guest

*(Barb Conits was absent but had executed a waiver of Notice of Meeting and a Consent to serving a three-year term and to her appointment as Treasurer)*

**2. ALLOCATION OF DIRECTORS' TERMS OF OFFICE**

Bob McKinley introduced the new Board members and indicated that agreement had been reached on what terms of office they would serve. They were as follows:

Tom Collins – 3 Years  
Barb Conits – 3 Years (by written consent)  
Robert McKinley – 2 Years  
Sandra Fontana – 2 Years  
Henry Schulte – 1 Year  
Stephen Guest – 1 Year

**3. APPOINTMENT OF OFFICERS**

Bob McKinley indicated that the following officers were appointed for the ensuing year or until their successors are appointed:

President – Robert McKinley  
Vice-President – Sandra Fontana  
Stephen Guest – Secretary  
Barb Conits – Treasurer  
Tom Collins – Director-at-Large  
Henry Schulte – Director-at-Large

**4. EXPRESSION OF THANKS TO PREVIOUS BOARD**

The President expressed thanks to the members of the just-retired Board of Directors for their years of service to our Association and all their hard work. Tom Collins added his praise for Verity Minahan and Sue Jordan, in particular, for the enormous amount of time and energy they have each devoted to VWS.

## **5. PROPOSED SPECIAL GENERAL MEETING RE COMMENCEMENT OF LITIGATION**

Stephen Guest discussed the need for a special meeting to be held to approve the commencement of litigation arising out of the drainage problems at VWS. The Florida Statute on Homeowners' Associations requires that any suit claiming damages in excess of \$100,000 must first be approved by the members at a meeting called for the purpose. He said that the commencement of litigation would ensure that the potential claims of the Association would not expire under the Statute of Limitations.

Naomi Dingman asked whether attempts had been made to negotiate a voluntary resolution of the problems with the engineer and developer. Stephen Guest answered that negotiations had been underway for about one year and so far had not produced a satisfactory result.

Martin Nefsky, a homeowner, questioned whether the Association's attorney shouldn't be investigating whether Carter and Associates carries liability insurance. Stephen Guest indicated that the insurance coverage carried by professionals is a confidential matter between them and their insurer and is not subject to being disclosed. It is up to the professional to submit a claim to his insurer if he so chooses, but he could equally opt to handle the claim from his own resources. Mr. Nefsky also suggested that the litigation could be done for free by an attorney who would work on a contingency fee basis. Stephen Guest responded that the roughly 1/3 fee that would be charged by such an attorney would still have to be made up by the HOA out of the award of damages. If the actual cost of rectification of the deficiencies was, for example, \$300,000, then \$100,000 of that would go to the attorney, leaving the HOA to pay for that portion of the repairs itself. An attorney who works on a fee-for-service basis may charge less than one working on a contingency basis and so there is a judgment call to be made before proceeding in that manner.

Rosalie Willis, a homeowner, indicated that the County maintains records of what insurance is covered by contractors.

Bob McKinley indicated that a conference call will take place on March 5, 2008 with Attorney Kenney to provide the new Board with a status report. Following the conference call, the Board will determine how to go forward. He stated that it will be necessary to keep the issue of the litigation and matters of special assessment separated for the moment until things have been sorted out.

Stephen Guest pointed out that all board business should be conducted in the open, at public meetings and since there were no more public board meetings scheduled for the near future it would be necessary to deal with the calling of a special meeting now.

Richard Broering, a homeowner, made the suggestion that VWS should contact a road contractor or pipe contractor and get three alternatives for all the costs, so we can have a

basis for the prices. He questioned the estimates that are being quoted, like \$300,000, which appeared to have been plucked from the air by the attorney for the HOA. Bob McKinley commented that until the engineer has developed a solution for the road grading problems it would be premature to have a contractor attempt to estimate the costs.

Stephen Guest introduced a motion, seconded by Tom Collins, as follows:

*BE IT RESOLVED that the Board of directors convene a special general meeting of members on April 9, 2008 for the purpose of approving the commencement of Court proceedings to claim damages in excess of \$100,000 arising out of the incorrect design, construction and supervision of the roads, grading and drainage works in Village Walk South Association.*

Motion Carried Unanimously

## **6. PROPOSED SPECIAL GENERAL MEETING RE AMENDMENTS TO DECLARATION**

Stephen Guest described the need to amend the Declaration of Covenants to permit the Association to take over responsibility for the replacing roofs and repainting of units on a periodic basis, this being the expressed will of a substantial number of owners. He pointed out that such responsibilities would not include repair of storm damage, which would remain a homeowner's responsibility. This would be covered by individual insurance policies held by the homeowners or by their own resources where deductibles might apply. The reason for this concerns the difficulty and expense of obtaining project-wide insurance to cover storm damage to the roofs on behalf of the Association. He added that certain technical amendments to the Declaration were also required to broaden the basis on which the Association can levy special assessments.

Fred Scheafer commented that his roof is covered by insurance. It was explained that insurance covers damage, not normal replacement due to wear and tear.

Marlene Broering asked if the HOA would be responsible for repairs to roofs if the Declaration is changed. It was explained that the homeowners would still be responsible for repair of damage.

Stephen Guest introduced a motion, seconded by Tom Collins, as follows:

*BE IT RESOLVED that the Board of Directors convene a special general meeting of owners on April 9, 2008 to approve amendments to the Declaration to provide that the Association become responsible for the periodic repainting of the exterior of the houses in Village Walk South and for replacing the roofs, both according to a planned schedule based on the life expectancy of such components, repair of damage to such components caused by acts of god, wind, tropical storms or other severe weather events, to be excluded from the Association's responsibilities. The amendments would also include provisions for levying special assessments for capital improvements and for costs related to litigation.*

Motion Carried Unanimously

## **7. FINANCIAL CONSIDERATIONS RE LITIGATION AND NEW REPAIR RESPONSIBILITIES**

There was a brief discussion regarding the funding of the costs of litigation and the effect on fees of adding the new repair responsibilities to those of the Association. Stephen Guest commented that a very cursory review of the Reserve Fund Study, just received by the new board at the outset of the meeting, indicates that an increase in fees of about \$500 per year per unit would be required to pay for the roofs and painting. He indicated that he would attempt to scan the reserve fund study and post it on the website.

Bob McKinley indicated that some information would be presented at the special meeting on April 9, 2008 to deal with the funding implications of the litigation and the new repair responsibilities.

The notice requirements for meetings and levels of approval required for the matters under consideration were outlined by Stephen Guest. Thirty days' notice is required for special assessments. In view of the time required to prepare and send the notice of meeting to all owners, a minimum of 35 days will be needed between now and the meeting date. Attendance by a majority of voting interests will be needed for a special assessment. The declaration is vague on whether such attendance may be both in person or by proxy. Since the Florida Statute on Homeowners' Associations gives members the absolute right to attend by proxy, the better interpretation is that the required attendance may be achieved through a combination of personal attendances and proxies. The matter will be reviewed with the Association's attorney.

**8. ADJOURNMENT:** There being no further business the meeting was adjourned at approximately 9:10 PM