

**Briarwood Falls Condo Association
Executive Board Meeting Minutes
January 13, 2022 at 10:00 AM
(Approved 02/10/2022)**

Chair: Chris Burke

Minutes Submitted by: Joe Geiger

Board Members Present: Chris Burke, President, Pat Perna, VP, Karen Pontrelli, Treasurer/Director, Bill Cucchi, Director, Joe Geiger, Secretary/Director, and John Pacheco, Director

Guests: Paulette Carli, Sue Furmanski, Lynn Geiger, Joanne DeCarli, Greg Dexter, Chris Norman, Ron Sabatos

Board Members Absent:

TOPICS	DISCUSSION	ACTION
1) Call to Order	Chris called meeting to order at 10:00 AM	
2) Additions to Agenda	None	
3) Community Member Input	None	
4) Approval of Board Meeting Minutes	Dec. 9, 2021 Board Meeting Minutes John made motion to approve minutes Karen 2 nd motion No changes All approved	

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<p>5) Treasurer's Report</p>	<p>Karen Pontrelli presented the financial statement for the last month, December 2021. This was the Year-end 2021 statement.</p> <ul style="list-style-type: none"> ➤ Total Income: \$22,798 ➤ Total Expenses: \$20,006 ➤ Difference was positive \$2,792 ➤ The YTD difference of income vs. expenses was a positive of \$6,881 ➤ Total Reserves at the end of quarter: \$ 167,602 <p>Joe asked if, at least, the Year-End Financial Sheet could be revised to show the total balance of funds held the account. This would include the difference of Income minus expenses for year plus remaining money's available from the year's Total Budget Income, which would include remaining funds from the prior year rollover.</p> <p>Karen said she would show this balance in the Financial Statement to be presented at the January 20 Community meeting.</p> <p>Karen presented quotations from Bouvier (Vermont Mutual Ins) and Gerardi (Arbella Ins.) for renewing the Master Insurance Policy 2022. Recommendation was to accept Bouvier at cost of \$36,750. Pat made motion to approve Bouvier Insurance Bill 2nd motion All approved.</p>	
<p>6) Tele-Meeting with Chas on Waiver Vs Declaration Questions</p>	<p>Joe discussed the highlights of the tele-meeting minutes which are attached. Chas did indicate that in the base case the Association's responsibility for MR&R for the four limited common elements stated in the Declaration, i.e., driveways, walkways, decks and patios, would override a waiver. Chas also offered some options that the board could consider depending on the specifics of the request and taking into account the human elements that could come into the play. This was the basic</p>	

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	<p>question the Board was addressing in the Tele-meeting. The tele-meeting covered four other questions each on a different category of waiver request and how to consider and decide it.</p> <p>After some discussion Chris suggested that we include these tele-meeting minutes in this meeting's minutes and gong forward the Board could refer to the logic presented there-in to assess best decision for granting or denying a waiver request. Joe made the motion to do as Chris suggested. Pat 2nd motion. Vote - all approved</p> <p>Pat then made a motion that we establish a Waiver Committee with residents that would review untypical waivers and recommend action to the Board. An untypical waiver is one that requests to add an element to the unit structure, i.e., sunroom, challenges the Declaration or one that the Board seeks advice on before taking action. Such Committee should have at least one member who has good understanding of the Declaration. The majority of waiver requests would continue to be reviewed & approved by the Maintenance and Landscape Directors. Bill 2nd motion. Vote – all approved</p> <p>Joe offered to be Board liaison for the Committee.</p> <p>We will put this on the agenda for the Community Meeting and ask for volunteers to be on this Committee.</p>	
<p>7) Repairs and Maintenance</p>	<p>Bill provided M&R Tracking Report (attached to minutes) with comments on repair issues since December report. Three 3 units have problem with Slocum Window units. A Slocum service rep is coming to site to inspect the windows and determine if warranty will cover the repair or replacement.</p>	

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Maintenance expenses since last report:

- Labor for misc. repairs > \$228.75
- Materials for misc. repairs > \$21.20
- Mason Contractor for basem't window seal up 14 Mockingbird > \$1525

Community Center Fire Extinguishers – Joe discussed plan to monitor and inspect the 2 fire extinguishers in the Community Center. Per NFPA 10 Code for the type extinguishers we have, the extinguishers should be inspected:

- Once per Month – External condition Inspection
- 6 Years – Emptied/Inspected/Refilled/Recharged by certified agent or replaced.

Joe recommended that the Board should assign one Director to be Fire Extinguisher Monitor who would be responsible to visually inspect the two extinguisher each month and sign inspection tag. This would assure that the overall condition of the extinguishers are good and pressure is good if it indicates so in green zone on gauge or, if not, action would be taken to correct problem or replace the extinguisher.

Joe volunteered to be Board Fire Extinguisher Monitor for his term in office.

Based on an assessment of costs to do the 6-year inspection and refurbishment by certified agent, it will be lower cost to replace the two extinguishers in June 2024 with new ones and recycle the old ones at Firehouse.

A Fire Extinguisher folder has been added to our Storeroom File Cabinet. It contains information about the type of extinguishers, the NFPA 10

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	inspection and service requirements and extra inspection tags.	
8) Waivers	<p>Add Deck 2 Owls Nest – 8’ X 11’ treated pine deck Board called for vote to accept > Approved</p> <p>3 Sterling Court – 1) at Sunroom, remove two deteriorated wooden steps and replace with pre-cast concrete steps. 2) add handrails to front steps. Board called for vote to accept > Approved</p>	
9) Committee Reports	<p>Landscaping Committee - John Pacheco Nothing to report. All going well with snow removal</p> <p>Social Activities Committee – Pat Perna Christmas Party was a grand time for all attendees Valentine event still being discussed.</p> <p>Declaration Committee - Joe Geiger Committee submitted final Amended Declaration to the Board before this meeting and asked that Board accept and distribute it to community prior to January 20 Community Meeting and set date of February 10 to complete voting.</p> <p>Committee will schedule one or more Declaration Presentations to the Community prior to the vote with first presentation on Saturday Feb. 22.</p> <p>Chris asked the Committee to send out Amended Declaration with the February 10 date set to complete the vote. Committee will include cover letter with Amended Declaration with information to help guide them through the document and identify those sections that would likely be more significant for their attention.</p>	

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<p>10) Authorization Costs to move Pool Table</p>	<p>Bill made a motion to authorize cost to move donated Pool Table to our Community Center. Joe 2nd motion for discussion. A resident has a friend that will donate a <i>circa</i> 1918 professional grade and size pool table with felt covered slate top to our Community Center. Chris and Bill have inspected it and found that the table and related equipment are in really good condition. However, it a large, heavy table and to move it from a basement location to our CC and properly set it up requires using an experienced moving contractor. Cost to the Association would be \$800 - \$1000.</p> <p>In the discussion it was mentioned that the table would take up a considerable amount of room in our CC. Also, does the community want to have this and will it get sufficient use to justify the costs to get it here? We already have a very nice Shuffle Board which is not used often, but it is tucked next to a wall. A proposal was made to present this opportunity to the Community at the Jan. 20 meeting and see if there is support to move on it.</p> <p>Bill made a motion to add this to Agenda for Jan. 20 meeting John 2nd motion Board vote – all approved</p>	<p>Add to agenda for Jan. 20 Community meeting</p>
<p>11) Omicron Variant vis-vis Community Center</p>	<p>Chris asked if we should consider closing again the Community center until the spread of Omicron variant has diminished.</p> <p>Bill made motion to keep the Community Center open Karen 2nd motion Board Vote – all approved to keep Center open</p>	

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<p>12) Proposed Maintenance Request Policy</p>	<p>Joe presented draft 5 of the proposed Maintenance Request Policy and asked for comments. Bill said that we should show Utility Companies phone numbers as first response for an emergency event related to utilities. Pat suggested that we add wording to clearly show that current resident is responsible to see that their unit is properly maintained, even for the Association related responsibilities, in order to minimize risk for possible resale inspection issues to the Association.</p> <p>These comments will be added to document.</p> <p>Joe proposed that the requirements be included in the Rules and Regulations rather than a new Policy. Rules and Regulations are included in the Condo Association book/package that Declarant / Realtors are required to give to a prospective buyer vs where a policy likely would not be seen until after buyer was new owner.</p> <p>Chris said we would table document for now and look at it again as part of the Rules and Regulations.</p>	<p>Joe to incorporate Maintenance Request requirements in Rules and Regulations and present it to the Board at Feb. 10 Meeting</p>
<p>13) Agenda for Jan. 20 Community Mtg</p>	<p>Pat made motion to consider Carol Pacheco's proposal for the Association to rent dumpster for our community to use after garage sale to complete clean out of unwanted stuff. Karen 2nd motion.</p> <p>In discussion, Joe stated this was a good idea but he had found that the best deal was LOWE's Waste 15 cu. ft. dumpster (about ¾ size of dumpsters Ernie had on site during building phase). Best cost is "Weekend Warrior" rental of \$400 that includes up to 2-ton loading + \$32 for each additional 500 lbs. There's a specific list of what can-cannot be dumped and, things like appliances, electronic equipment, mattresses will have an additional charge back to Community when dumpster load is</p>	<p>Add agenda item for Community Meeting: - Waiver Committee - Pool Table - Community Dumpster Day</p>

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	<p>inspected at recycle center. This cost is likely to be too high for the Association to do.</p> <p>Karen suggested looking at Willimantic Waste's Special Pick-Up option where anyone can schedule for a pickup of stuff they wanted taken away. We could possibly schedule a same-day pickup for the Community and get a better price.</p> <p>Karen will get more information from Willimantic Waste. We'll put it on the Agenda for the Community Meeting to get our community's feedback.</p>	
14) Old Business	None	
15) New Business	None	
16) Next Board & Community Meeting	<p>Community Meeting January 20, 2022 at 6:00 PM</p> <p>Board Meeting February10, 2022 at 10:00 AM</p>	
17) Community Member Input	<p>Ron Sabatos discussed progress on his project proposal to change monthly assessment to a fixed fee vs fee based on Unit sq. ft. He is now updating his proposal with our 2022 budget information and in near term will ask Board for opportunity to make a presentation about it to our community.</p> <p>Chris Norman expressed his disappointment with the Board in that they have not taken a more action position on the Declaration issue. Speaking for the Committee, it would have been preferred that Board had voted to accept the Amended Declaration, as they wanted assurance that all Board members accepted the document as drafted and agreed it to be sent out to our community for the vote.</p>	

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18) Adjourn	Chris called for the meeting to be adjourned. Karen made the motion to adjourn. Joe 2 nd the motion Meeting adjourned at 11:23 AM	
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Attachments: Minutes of December 21, 2021 Tele-meeting with Chas Ryan re Declaration vs Waiver Issues.
Maintenance Tracking Record December 9 – January 13, 2022

Minutes of December 21, 2021 Tele-Meeting with Chas Ryan re Declaration vs Waiver

Rev. 01/07/2022 - The 5 category questions in the strategy were addressed and the discussion each is below each question. Minutes corrections were made as per feedback from Bill and Karen on initial draft and further review of tele-meeting notes.

Joe Geiger – Director/Secretary

Strategy for Addressing Questions to Chas Ryan 12/21/2021 Meeting Waiver vs Declaration

Recall the Board’s and Chas’s negotiations when the Waiver was being drafted Specifically, the waiver was to provide a “legal” basis to eliminate future expenses for Maintenance, Repair and Replacement (MR&R) to the Association for amenities or features a Unit Owner adds that were not included in the original build of a Unit or in the Declaration.

The current Declaration, Section 5 (1) allocates four Limited Common Elements Walkways, Driveways, Decks and Patios as Common Elements. Section 6.1 of our Declaration designates these four LCE to be Common Elements that the Association is responsible for MR&R.

Under our Waiver Policy, a policy you helped us draft, if an owner adds an addition, such as flower bed, generator, deck, patio, sprinkler system, etc., at his unit the owner becomes responsible for future MR&R of that.

The general question is, does our Waver Policy override the Declaration statement of responsibility for a Limited Common Element (LCE) if it is stated to be a common element in the Declaration and, in some cases, if it is not in the Declaration?

More specifically, we will ask Chas to describe the correct interpretation of a waiver vs the Declaration for five categories where a waiver would be required.

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Category 1 - Add/modify explicit Limited Common Element

A Unit Owner only having a one car stall garage is granted a Waiver to widen his driveway to add a paved parking area along side of the existing driveway; it becomes part of the driveway. Once the paved parking area is built and starts to wear out or deteriorate, is the Unit Owner now responsible under the Waiver for any future MR&R of that added portion of the driveway, or, is the Association still responsible for MR&R of the added driveway portion as per our Declaration's allocating the Association to be responsible for MR&R of driveways?

I don't recall everything Chas said on this question but this is what I took from my notes on Chas's opine. From Chas's comments I concluded that in the responsibility for MR&R as stated in the Declaration would override the waiver. However, there could be cases where an alternative solution could be considered. He addressed this category giving three options:

1. Under the waiver make the owner fully responsible for the parking area as a new added element.
2. Under the waiver make the owner responsible for the added parking pad and original driveway.
3. The Owner installs/pays for the parking pad under waiver but the association remains responsible for the original driveway and new parking pad as per the Declaration for future MR&R.

Consider these options relative to the following cases:

- A. Today there are only three of the Phase 1 units that have 1-car wide driveways and do not have a parking area along side of driveway: these are 5, 6 & 7 Mockingbird. All other Phase 1 units either had the parking pad installed during building of Unit or it was added later without a waiver, as the waiver policy was not in place at time parking pad was installed. The Association is now responsible for these Phase 1 Units driveways and parking pads

Unit owner 7 MB has submitted a waiver to add parking area. I know that Ron White was considering doing this at 5 MB. As Chas said, for some cases we need to consider the human element. In the case for **these 3 Units**, if owner submitted waiver to add parking pad, I would propose applying Option 3.

- B. For the Phase 2 Units that have 2-car wide driveways and 2-car garages, if they were to submit a waiver to add a parking pad, I would propose applying Option 1.
- C. The same logic could be used for the other three LCE allocated as common elements in Section 6.1 of Declaration; walkways, decks and patios:

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- If a waiver to add walkway is requested in an area where there should have been one at the time of original build but was never installed and it is to be similar with other Unit's walkways, then apply Option 3. If the walkway is to be located in a new area, then apply Option 1.
- If a waiver to add a deck was submitted, and since to date none of the existing 81 decks had been added with a waiver, apply Option 3. If a 2nd deck was to be added, then apply option 1.
- If a waiver to add a patio was submitted to a unit that now does not have a patio, apply Option 3. If the patio is to be added/extended to existing patio or to be a 2nd patio in a new area at the Unit, then apply Option 1.

Category 2 – add/modify a Common Element

A Unit Owner is granted a Waiver to add a mulched flower bed along the side of his unit in compliance with the Association's Landscaping Rules. The Declaration requires the Association to maintain only the builder's installed small front garden bed as part of Common Element landscape. Once the mulched flower bed is installed is Unit Owner now responsible for maintaining all aspects of the side bed, including future mulch renewal, or, is the Association still responsible for the added flower bed as part of common element landscape as stated in our Declaration?

My understanding of Chas's opine for this category question is that the Association with the waiver can make the unit owner responsible for flower beds, shrubs, trees, etc. or similar elements the Unit owner adds to the common elements at the Unit. Only the landscape elements and other elements installed by the Association or Declarant/Builder would be the responsibility of the Association.

Category 3 – Owner adds/modifies a NEW type of element

A Unit owner is granted a Waiver to add a sprinkler system in lawn area around his Unit. This is a new kind of element not addressed in our Declaration but it gets installed in common grounds which are stated in our Declaration to be Association's responsibility. Once this sprinkler system is installed, if a problem occurs, such as a spray head failure or underground piping rupture that releases quantities of water that damages the common grounds or causes water damage to an adjacent Unit, is the Unit Owner under the Waiver now responsible for the damage or is the Association responsible for the damage to the Common grounds as per our Declaration?

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Or, if a component of the sprinkler system fails or the system stops working, independent of whether any damage is incurred, is the Unit Owner responsible for repairing the system under the waiver or is the Association responsible under the Declaration's statements for common grounds?

My understanding of Chas's opine for this category question is that the unit owner would be responsible for any maintenance or repair of the sprinkler system as well as damages to the common elements under Waiver statements 2 and 9. An exception could be, if the damage warranted making an insurance claim because the Association's Master Policy were to cover the damage, then the Association could be responsible to make the repairs to the damaged common elements. The Unit Owner under the waiver would be responsible to pay for the deductible portion of the repair costs.

Category 4 – Declarant/Builder adds a NEW type of element during Unit build

The Declarant-Builder installs a sprinkler system in lawn area around a new Unit as part of the unit sale negotiations. We assume installation of sprinkler system would be the Declarant's rights and the Unit buyer would not have gotten a waiver. Again, this new kind of element gets installed in common grounds which are stated in our Declaration to be Association's responsibility. Once this sprinkler system is installed, if a problem occurs such as a spray head failure or underground piping rupture that releases quantities of water that damages the common grounds or causes water damage to an adjacent Unit, **since there was no waiver**, who is responsible for the damage to the common grounds, the Unit Owner or the Association?

Or, if a component of the sprinkler system fails or the system stops working, independent of whether any damage is incurred, **since there was no waiver**, who is responsible to repair the sprinkler system, the Unit Owner or the Association?

Chas opined here that this category addition could be a case-by-case situation. The base case is, if the Declarant/builder adds an element to a common element as part of Unit sale agreement the association would be responsible for it as allocated in the Declaration and, if it is not designated otherwise in other documents, such as the Public Offering Statement.

The issue for skylights installed by the builder on two of the Phase 1 units was addressed. Chas pointed out that these would be the Association's responsibility under Declaration Article 4 – Boundaries; skylights are part of the roof and stud structure, which the Association is responsible for.

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To move forward on this issue, we should consider keeping Skylights as Unit Owner responsibility in the Proposed Amended Declaration but put in the caveat "Skylights installed post 2016" Unit builds. This would then grandfather the two early Units built with skylights to be Association responsibility (13 Oriole & 17 Mockingbird).

Learnings from this category discussion is for the Association to get agreement from the Declarant, for the Phase 3 & 4 Units, for a list of options offered or other features negotiated as part of the Unit sale contract that are not already allocated as Association's responsibility in the Declaration, that these would be designated to be the Unit owner's responsibility for MR&R. This list would be included in the Declarant's Public Offering Statement (POS). For example, this was done in Derek Santini's 2016 POS for decks and storm doors, but this didn't stand for decks because these were clearly allocated as Association responsibility in the Declaration.

Category 5 - Conduct maintenance of LCE or CE

A Unit Owner gets a Waiver to pressure wash and stain his Deck which is a Limited Common Element as per our Declaration and the work is completed. If later damage or discoloring occurs to the stained deck surfaces is the Unit Owner responsible to fix it under the waiver or is the Association responsible to fix it as per our Declaration that Decks are a Limited Common Element?

In the same case, does the waiver make the Unit owner responsible for all future cleaning and staining if in the future the Association adopts a maintenance practice for decks that includes periodic cleaning and staining, or would then the Association be responsible for this maintenance under the Declaration?

In other words, can the waiver exclude the Association from ever having to do cleaning and staining maintenance on this Unit's deck?

My understanding of Chas's opine on this question category is, if the Association had no specific practice/policy for maintaining the element, under the waiver the Unit owner would be responsible for that specific maintenance practice forevermore. If on the other hand, the Association were to later implement such maintenance practice/policy then the Association would be responsible for the maintenance from that time forward. The association would still have responsibility for repair and replacement of the element as stated so in the Declaration.

Also, Chas suggested for all of the categories addressed, the Board could add additional language to the Waiver request form to further clarify the Unit owners' responsibilities.

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He further stated that he could draft/add another statement to the waiver that would help clarify the responsibilities for the Association and Unit owner with the approval of the waiver. He said he could make this addition to the waiver draft in 3 minutes and send it to us. It was my opinion, that we should have asked him to do so then as it would be fresh on his mind. We can still do this. If we put off asking Chas for this additional statement until after our next board meeting or later, I am sure he will spend more time to recall the details and draft the statement.

New Category - Added Living Space

We had a few minutes left in the hour after addressing the 5-category question. Chris asked, if an existing Unit Owner submits a waiver to add a sunroom to his unit which would increase his living space, what options does the Association have to change his allocation of interest/Schedule A-2 or otherwise recover costs for future MR&R of the added common elements.

Chas suggested 2 options:

1. Petition the Unit Owners to approve/vote for a change in the Schedule A-2 for the added living space and issue new related amendment. As Chas pointed out, there shouldn't be an objection to this as the other Unit owners would be getting a slight reduction in their allocation of interest while the owner adding the living space would see an increase. This will be reflected in having a slightly lower \$ / sq. ft. base used to calculate the Condo fees.
2. If the vote failed, add wording to the waiver that declares, any new living area added to an existing Unit after initial Unit construction is a Limited Common Element and the owner is fully responsible for all MR&R, i.e., structure, roof, siding, windows and doors of that addition. The association would commission and do the needed repairs or replacements and bill the Unit owner for portions associated with the added living space. (A similar statement is in the Declaration, Section 13.1 (a).)

Chas also recommended that a record of the waiver for added living space should be filed with Land Records and that the waiver should identify the legal first name of Unit owner and the address.

The tele-session with Chas started at 10 AM and was finished at about 10:59 AM.

JTG – Rev. 5, 01/07/2022

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MASTER Maintenance / Repairs list						
<u>Address</u>	<u>Unit Style</u>	<u>Maintenance / Request</u>	<u>Date requested</u>	<u>Status</u>	<u>Date completed</u>	<u>Category</u>
2 Snowbird	RANCH	Unit owner states walkway leading to kitchen needs some repairs	11/15/2021	looked at it on 11/16/21.....will have the concrete repairman, Nick, look at it on 11/17/21 and will give us an estimate.	12/13/2021	WALKWAY & STEPS
8 Snowbird	RANCH	leak from gutter near entrance by kitchen	11/7/2021	put flex seal in gutter	11/8/2021	GUTTER & DOWNSPOUTS
25 Mockingbird	CARDINAL	Leak from Radon pipe in basement	11/24/2021	sealed joint in pipe	12/18/2021	BASEMENT
23 Mockingbird	CARDINAL	Leak from Radon pipe in basement	11/29/2021	sealed joint in pipe	12/18/2021	BASEMENT
26 Mockingbird	CARDINAL	Crack on inside pane of double hung window	12/3/2021	Slocomb coming 01/13/22		WINDOW UNIT
27 Mockingbird	EAGLE	Leak between window panes	12/16/2021	Slocomb coming 01/13/22		WINDOW UNIT
8 Oriole	EAGLE	Water getting in through bottom of garage door	1/6/2022	need to replace garage door seal, approx 6" short		GARAGE DOOR
24 Mockingbird	EAGLE	crack in utility room flooring extending into kitchen	1/7/2022			MISELLANIOUS
8 snowbird	RANCH	leak from gutter near entrance to kitchen	1/7/2022	original patch did not work		GUTTER & DOWNSPOUTS
2 Owls Nest	RANCH	Vinyl piece of soffett fell off above sun room	1/10/2022			SIDING TRIM
10 Skylark	EAGLE	Window issue	1/13/2022			WINDOW UNIT

MASTER

CATEGORY LIST

UNIT STYLE LIST

