

**Falcon Estates HOA
Monthly FEHOA Board Meeting Minutes**

Date of Meeting: November 17, 2022
Time of Meeting: 6:00 P.M.
Location of Meeting: 21C Library
1175 Chapel Hills Drive
Colorado Springs, Colorado 80920

Present at Meeting: Jim Torley
Kelly Gengler
Lynn Murphy
Tim Fishel
Bonnie Bagley -Volunteer
Dawn Neeley -Volunteer

Guests: Dave Draves
Mark Meizia 1162 Fuller Road
Ben Schlick 1320 Berglind Rd
Patty Pignotti 1178 Collins Rd.
Tom Carpino 1210 Fuller Rd
Dennis Parker 819 Collins Rd
Nicki Brayall 912 Fuller Rd
Linda Ries 7219 Murdoch

1. Approval of Agenda

The meeting was called to order by Jim Torley and seconded by Tim Fishel

2. Review of Previous Minutes

Minutes from the October 2022 meeting were read, corrected, and approved Unanimously.

3. Financials

a. Website update

b. No changes, no bills, and no new memberships

A motion was made by Lynn Murphy to approve the financial statement and was seconded by Tim Fishel

4. Consideration of Old Business

a. Ice Cream Social - Can be held in the Cul-de-sac. It must be permitted by the city 2 weeks in advance. Cost \$10

- b. Dumpster - A dumpster can be placed on a residential street. A permit from the city must be obtained at least 2 weeks prior to the dumpster's arrival. Traffic cones should be placed around the dumpster. Cost \$50
- c. Caught up on the welcome wagon
- d. Donations: Any sanctioned fundraisers would have to have additional liability insurance which would consume any monies raised in a fundraiser.
- e. Donations: donations to an HOA are NOT tax deductible.
<https://emspm.com/hoa-donations/>

5. **Consideration of New Business**

- a. Laura Fraser has committed to donating the prizes of \$150 in gift certificates from Milagros. After discussion with the attorney, it was found that donations can jeopardize HOA legality insurance and are not tax deductible. The donor will not be able to write it off as tax deductible. Current liability insurance is 1500 per year. We have not asked the insurance company how much it would cost to insure the entire HOA as an entity. We have not looked at this before. And, to what level would the HOA be responsible for negligence on the homeowner's part?
- b. Reach out to Traffic management to get lines repainted. Kelly Gengler spoke with Carol Medina at Traffic and Transportation Engineering at 719-385-5908. She needs a list of all the areas to repaint. Email the list to Carol.medina@coloradosprings.gov It might be too cold now, but we can get on the list for next spring. Kelly drove through both neighborhoods and wrote down the streets that need repainting and noted that a couple need new street signs. She did take photos to submit to Traffic Management.
- c. Dawn Neeley says she is working on making this a historical neighborhood. Hold off on street signs because if that goes through we will get new signs. She is trying to see if we qualify for it from the city. Dawn will bring the information back to us.
- d. Kelly Gengler drove past the home on Murdoch and Shrieder. They are working on that property. They are obviously trying to improve the property. (Photo)
- e. A traffic calming study was requested for Copley RD on the East side
- f. Traffic calming study in process for Collins on the West side. It was suggested we wait to do a traffic study until the empty businesses are filled. The Board does not get to say when the city conducts the study.

- g. ADU -calling lawyer on this. On our covenants, it says single-family dwelling. The city will tax the person who sublets their ADU. Is it a business? If it is a business do we have the right to not allow them if the owner is taking payment?

Questions:

Dealing with the city's definition of a single family for ADU purposes. Response: Need to confirm with the city. Areas are zoned as single-family. Needs to look further with the city and our covenants that there are not any current building situations that would restrict an ADU from being built. The attorney via phone stated that there is a case in the courts and we should wait until a verdict is given and then come back to this subject. Covenants would not supersede state laws on ADU.

Case law would supersede. The colorado court of appeals defines it as residential use.

2. Setback issues: Covenants call for 25 feet and the city calls for 10 feet. Response: The city can be less restrictive and the owners in the community can enforce the larger setback under the covenants. But, the city will still approve the smaller setback. They will not enforce the covenant setback. What do we do if a homeowner follows the city requirements? Should we consider modifying the covenants to match the city code? The attorney suggested that FE consider an amendment to our covenant to put this dispute to rest. To save money the board could take a shot at drawing up the proposal. - Those who have current violations made years ago would be grandfathered in. They may not be in compliance now, but the amendment would bring everyone current.

- a. That requires a change in the covenants to change the setback.
 - b. Would require approval of the lot owners for each filing. 2 of the filings appear to be a simple majority and one of the filings requires 65% of acceptance. In the process of doing that approval, the board would come up with the new language with the new setbacks and send out to each owner the proposed covenants.
 - c. A vote for or against documents must be signed and returned within 60 days. We have a number of absentee owners so getting this done is a long process.
 - d. Should we retro-enforce the 25-foot setback or penalize those homeowners who have not done that?
 - e. A provision for new owners would need to be established to grandfather that property in when transferred to the new owner. If you adopted an amendment then you would not have any lots in violation.
 - f. If there are violations what legal recourse does the HOA have to make new builds set back 25 feet?
2. The current bylaws do not have any mechanism to apply sanctions against anyone who does not follow the covenants. There are not any additional enforcement remedies.

- a. The covenants have enforcement rights. A homeowner can sue their neighbor. If the homeowner wants the HOA to represent them, the bylaws and article of incorporation state that the owner must sign away their rights for the HOA to represent them.
 - b. The ACC can only educate the builders. And give them city codes and requirements regarding building in FE. The ACC always notes that they write down everything they are building. The owner is advised of the rules but ACC cannot enforce them.
 - c. Patty Pignotti strongly insists that the HOA can sue the homeowners.
Response: The board can have the standing to let the neighbor know they are in violation but the Board cannot enforce against members of the community. Not every lot owner has to be a member. The HOA does not have any authority over the neighbor.
3. What are the steps for the ACC to do when they meet with homeowners? What actions should the ACC take?
 - a. The question is, has the 25-foot setback been abandoned?
 - b. Should the HOA revise the 25' setback to match the city?
 - c. Can the HOA deny any changes? Would it be fair and equitable to do this to owners?
 - d. For now, the ACC will document the cases.
 - e. The city does not check/require or enforce covenants or HOA
 4. What is the requirement for an owner to get back into the HOA if the original owner opted out?
 - a. It is perpetual so they cannot opt back into the neighborhood.
 5. How can the HOA enforce bylaws?
 - a. Covenants can only be enforced if the bylaws can be changed to set up enforcement. Bylaws are the mechanism. The HOA has authority but no punishment.
 6. The HOA made a change and the documents are not updated.
 - a. Per the attorney, If the changes are written in the minutes document changes are not required.
 - b. The current board or any future board can ratify all past actions.

A move to close the meeting at 7:45 PM was made by Kelly Gengler and seconded by Lynn Murphy.

The next meeting is December 15, 2022, at 6:30 PM Library 21c