

Tollgate Association Board Meeting

Date and Time: September 7, 2013 at 9 a.m.

Location: #107 Tollgate Way (PowellResidence)

Attending: Ed Hahn, Margaret Melhem, Rob Ochsendorf, Joe Romer, Keith Powell, Marie Murray, Garry Sauner, Eric Kirschner, Steve Lyons, Jim Hogle, Cory O'Hara

1. Approved the previous meeting minutes which will be available for viewing online soon.

2. Treasurer's Report:

http://tollgateway.org/budget/2013_expenses.pdf

http://tollgateway.org/budget/2013_net_worth.pdf

http://tollgateway.org/budget/2013_budget.pdf

3. Committee Reports:

- Social – The fall picnic is scheduled for Sunday, September 22nd, with a tentative time set for 4:00-6:30 at the parking pad between #106 and #108.
- Landscaping – The time for seeding and aerating is approaching. The original contract from Greenhawk did not include these services. At the request of the Landscaping Committee, Greenhawk agreed to perform the work, and while the cost will be in addition to their original price quote for 2013 services, it will still put us under budget for this year's overall lawn maintenance budget line item. The work will likely be performed in late September or early October.

Spring planting did not occur in the spring as planned. The originally scheduled planting projects will occur this fall, and will include:

- (1) The front shrubs at #109 (Ehmer)
- (2) Adding a shrub next to the transformer at #117 (Ochsendorf)
- (3) Transplanting a Japanese maple from #117 to #121 (Bronikowski) and adding some additional plants to the front of #121
- (4) Adding a Laurel at #116 (Romer)
- (5) Transferring a Japanese maple from #127 (Hahn) to #101 (Vlahos)

- Trees – New trees will be planted either this fall or spring between #109 and #111 and at the far end of the street at #118 and #122 to replace the trees that were lost this past spring. We cannot replace the latter cherry trees with new ones because they are not on the city’s approved tree list, so a different flowering tree will be selected to replace them. The remaining cherry tree between #118 and #122 is displaying signs of blight and may need to be removed at a later date.

Guidelines for the care and maintenance of trees were edited and enhanced over the summer. The document will be discussed by the Landscaping Committee and presented to the Board at the October meeting.

- Architecture – There was one rush request from our new neighbors at #115 (Newsha and James Dau) for a roof replacement. The Committee handled the request in an expeditious manner, and approved the request in time for work to begin on schedule. Generally, homeowners are asked to provide as much lead time as possible when submitting requests to the Committee. Homeowners are also encouraged to provide physical materials (i.e., paint, siding, shingle samples, etc...) when possible.
- Maintenance – The Ochsendorf’s would like to repair crumbling sections of their parking pad apron. Garry is looking into securing estimates. The cost for the work would be split 50/50 between the Association and the homeowners.

Cistern Drainage from Cherry Street – Two homeowners on Cherry Street are draining their cisterns via hose directly onto Tollgate common area, causing there to be standing water along the fence line from #135 (Smolinski) down to the storm drain between #135 and #124 (Murray). Several homeowners have expressed concerns about mosquitos and electrical hazards (there is a transformer and phone box in this area). There is anecdotal evidence that suggests these homeowners are not emptying their cisterns properly. The Board will contact the City to understand best practices regarding cistern drainage, and then offer alternatives to our neighbors that might help alleviate our drainage issue.

4. Old Business:

- Pest Control –Activity in our bait stations increased during the last two months prompting the Tollgate Rat Patrol (TRP) to fill the stations more frequently. We may need to order one additional shipment of rat poison prior to year-end, which would put us approximately \$20 over budget for pest control this year.

Last spring the Association purchased a new night vision, motion-activated camera to determine what is causing holes around the parking pad at #112 (Johnson). Recently the camera spotted rat activity at this location, which prompted the TRP to adjust our bait station coverage around the area.

Storm Water Utility Fee—Rob Ochsendorf attended a meeting at City Hall last month on behalf of the Association to understand the details of the storm water utility fee and its impact on the Association. The City assessed a preliminary annual fee of \$5,274 for Tollgate, which, if divided evenly, is about \$182 per household. Appendix I shows the map used by the City for determining our impervious surface area. There are aspects to this map that the Board will dispute, which may bring our total assessment down.

The Association has been given some discretion by the City in determining how our total assessment is divided among homeowners, and how the fee will be billed. There is Board consensus that the \$5,274 fee should be divided evenly among homeowners, and that the fee should be applied by the City to each homeowners City tax bill, rather than billing the Association as a whole. The Board will put this topic on the agenda for the Annual Meeting so all homeowners will have an opportunity to hear the proposed assessments and discuss any concerns.

Storm water runoff best practices: The Landscaping Committee will look into plantings that could help with some of our drainage/erosion issues behind the photinias at the end of the street and behind #109 and #111.

Additional information about the storm water utility fee and storm water issues in general, can be found at: <http://www.fallschurchva.gov/StormwaterFund>

- Association Liability & Tree Climbing: Over the summer, and in response to the various issues raised during the discussion last spring regarding tree climbing in the neighborhood, Ed Hahn and Mark Kaye researched the issue of Association liability to determine if standing trees are an attractive nuisance under Virginia law, and determined they are not. Additionally, Bob Donaldson and Eric Kirschner researched options for raising our insurance coverage. Bob and Eric will move forward with researching the costs involved in either a) increasing present CGL limits or b) purchasing an umbrella policy above the present CGL policy. They will also research the costs involved in obtaining a Directors and Officers policy to protect association officers from personal liability. Bob also produced a map that delineates private vs. common property and shows the trees on each. Appendix II provides the summary of Bob and Eric's research, and

Appendix III shows Bob's map. The issue of liability, as well as private vs common property considerations will be included on the agenda for the Annual Meeting.

5. New Business:

- Annual Meeting Venue – The annual meeting will be held on November 17th. Board members will begin searching for a venue for this year's meeting.
- Election for Board Vacancies – Margaret Melhem and Keith Powell's Board terms end at the end of the year. Elections to fill these vacancies will be held at the annual meeting. Board members were asked to begin the process of identifying individuals who might be interested in serving on the Board. Marie contributed a set of guidelines (Appendix IV) that might be useful in candidate selection. Traditionally, the Board proposes candidates to be put on the voting ballot. The Board will further discuss possible candidates at the October Board Meeting.
- Parking – Concerns have been raised by some residents regarding parking on the street and continued regular use of visitor spaces by residents with open spaces in their own parking pads and driveways. Homeowners are asked to avoid parking on the street. Residents are encouraged to ask their guests to utilize visitor parking spaces when possible to reduce street parking. Homeowners are asked to leave visitor spaces open, and not use them for everyday parking. A reminder to homeowners about the Parking Guidelines will be included in the next newsletter.
- At the last Board meeting, Bob Donaldson requested that some of his responsibilities be re-assigned to other volunteers or hired contractors. Below is a summary of these responsibilities and the volunteers who have agreed to assume them:
 - (1) Maintenance of the Association's resident directory (Rob Ochsendorf)
 - (2) Maintenance of the Association's website (Eric Kirschner)
 - (3) Refurbishing of the neighborhood streetlights (TBD)
 - (4) Storing Association records (Keith Powell)
- Additionally, Rob will be the point of contact for passing along information/welcome material to new residents. The Board will re-evaluate what needs to be password-protected on the website. The Board agrees that at a minimum, the resident directory, budget, and meeting minutes will be password

protected. Additionally, a process will be established via the webmaster (Eric Kirschner) to provide temporary passwords to prospective homebuyers.

6. The next meeting will be on October 5, 2013 at #116 (Romer residence). The Board meeting concluded at 10:45 am.

APPENDIX I

Tollgate



Impervious Area (square feet)	58,607
Billing Units (area / 200)	293
Fee (per unit)	\$18.00
Total Fee	\$5,274.00

PRELIMINARY

APPENDIX II

Summary of HOA Liability Issues

- Individual homeowners can sue the HOA.
Sources: HOA Liaison Office, Fairfax County; Condominium and Homeowner Association Practice: Community Association Law, Wayne S. Hyatt, §10.02(a);

<http://www.avvo.com/legal-guides/ugc/can-i-file-a-lawsuit-against-my-hoa-for-injuries>;

<http://www.hindmansanchez.com/resources/article/homeowner-suits-against-community-associations>.
- The existing CGL insurance policy provides for limits of \$2 MM per occurrence, \$4 MM aggregate. This policy covers the HOA for damages arising from all sources and does not distinguish between suits brought by third parties or homeowners.
Source: Commercial General Liability Policy No. 1-660-199N5999-TIL-13
- The HOA may be tortiously liable for injuries sustained in common areas. Damages for injuries sustained on an Individual homeowners' property would be the responsibility of the homeowner.
Sources: <http://www.mynewmarkets.com/articles/180950/understanding-legal-liability-for-condominium-association-and-unit-owners>.
- Homeowners can be personally liable for HOA liabilities if the HOA must impose an assessment to cover HOA liabilities.
Sources: <http://articles.latimes.com/2010/aug/15/business/la-fi-associations-20100815>;
Condominium and Homeowner Association Practice: Community Association Law, Wayne S. Hyatt, §10.05 ("Unit owners remain personally liable to the association for assessments validly imposed. A judicial lien against association property will likely require assessments to prevent the association's management and maintenance from being impaired. Such an assessment would constitute a common expense.");

<http://www.foxbusiness.com/personal-finance/2012/07/17/guard-yourself-from-lawsuits-against-your-hoa/>.
- Individual homeowners may be able to add "Loss Assessment Coverage" that may cover HOA assessments imposed because of legal liability.
Sources: <http://www.washingtontimes.com/news/2011/sep/1/cover-story-insurance-a-must-have-for-condo-owners/?page=all>.

Recommendations

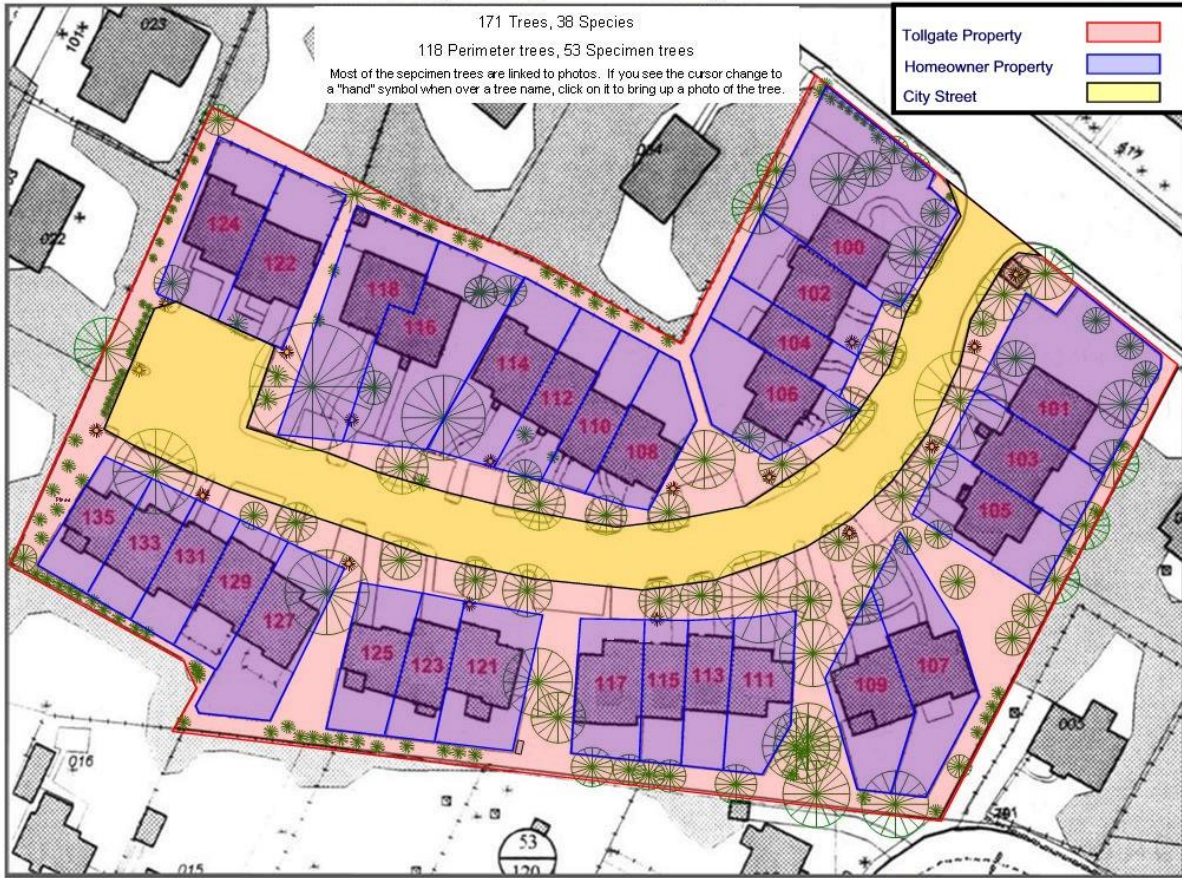
- Research costs involved in either a) increasing present CGL limits or b) purchasing an umbrella policy above the present CGL policy.
- Research costs involved in obtaining a Directors and Officers policy to protect association officers from personal liability.
See, <http://www.hoaleader.com/public/564.cfm>; <http://brainerd.ning.com/page/homeowners-awarded-30-7-million-in-lawsuit-against-northwest-indi>

APPENDIX III

Updated April 24, 2013

Tollgate Way Tree Inventory

By Bob Donaldson



APPENDIX IV

Considerations for Nominating New Board Members

Board representation should ideally reflect the demographics of a community, with all homeowner types (old, young, families, empty-nesters, singles, etc.) represented.

Individuals should be ready to commit to the time necessary for Board meetings, etc.

Individuals should be familiar with the community, know the governing covenants and By-laws, and agree to follow those rules on a regular basis in order to serve by example.

Individuals should be team players respectful to others and who can work well within a group.

Individuals who exhibit personal characteristics which are important in a group setting, someone who listens well and is thoughtful, someone who does not have a single personal objective, someone who is willing to pitch in and help with tasks as needed.