

Tollgate Association Board Meeting

Date and Time: June 1, 2013 at 8 a.m.

Location: #116 Tollgate Way (Romer Residence)

Attending: Ed Hahn, Margaret Melhem, Rob Ochsendorf, Joe Romer, Keith Powell, Bob Donaldson, Marie Murray, Garry Sauner, Steve Lyons, Anneliesa Hundt, Mark Kaye, Eric Kirschner, and John Lynch.

1. Approved the previous meeting minutes, which are now available for viewing online.

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

Bob expressed frustration with the general tone of recent communications, which was echoed by some members of the Board several times throughout the meeting. There is consensus that the contentious nature of communications has been unproductive, and that we need to do a better job of improving our interactions with each other. Face to face meetings are preferred over email correspondence.

Bob listed the various responsibilities he performs on behalf of the Association, and requested that some of these tasks be re-assigned to other volunteers or hired contractors. These tasks include:

- maintenance of the Association's resident directory
- maintenance of the Association's website
- refurbishing of the neighborhood streetlights
- hosting Annual Meeting
- storing Association records

Bob will continue as Treasurer and head of the Tree Committee.

3. Committee Reports:

- Keith requested that all Committee communications be vetted by the Board prior to being circulated to the community. If they are time-sensitive, contact the Board President or Vice President.

- Social – Keith suggested a summer ice cream social for the neighborhood, which he and Janet will coordinate with the Social Committee.
- Landscaping – The Committee was unable to do much work with respect to ongoing spring planting projects for the Ehmer’s (#109), Bronikowski’s (#121), and Kahn’s (#123). Instead, much time was devoted toward addressing the tree guidelines. The Committee met on May 13, to discuss and prepare a Committee recommendation to be forwarded to the Board. The resulting recommendation, Guidelines for Care and Protection of Trees, is addressed below under “New Business”.

Marie performed some work at the Melhem’s home (#102), as well as pruning at the Hahn’s (#127).

- Trees – Two trees were removed in late May at #109 and #122 at a price of \$850. It was determined that these trees were initially planted improperly, and as a result they declined slowly over time. Specifically, the tree at #109 developed a “girdling root”, whereby one main root crossed over the top of another main root and strangled it. A similar issue was found in the tree at #122. Several other trees within the neighborhood are also at risk of dying for the same reason, and are being monitored.

Rob has offered his backyard Japanese maple to the Association. Two locations are being considered for its placement.

- Architecture – No new business.
- Maintenance – Brian Black completed maintenance work on the front walls. Mr. Black recommended that flagstone be placed on top of the brick columns to prevent mortar erosion caused by storms.

The Board learned that the city is not responsible for driveway aprons (i.e. the small area of cement that connects our parking pads with the street). As such, the aprons would be treated like our parking pads, where the homeowner and Association split the costs of maintenance and replacement. Rob expressed concern about the condition of his driveway apron.

4. Old Business:

- Pest Control – Bait station activity has been low during the last month. The Tollgate Way Pest Control team anticipates that activity will continue to be low as the emergence of cicada's progresses and provides our area rat population with an alternative food source. The Association also purchased a new night vision, motion-activated camera to determine what is causing holes around the parking pad at #112.

5. New Business:

- Stormwater Utility Fee Registration – The City contacted Keith Powell to track down a Tollgate contact they can work with to implement the stormwater utility fee for Tollgate. The fee will be collected to pay for needed infrastructure improvements to solve some of the recent flooding problems and meet the mandatory requirements of the EPA's Chesapeake Bay Ordinance. The fee will be based on the amount of potential run off from each property. The City is still in the planning stages of how to assess and implement the fee. More information will be circulated as it becomes available. The Association Treasurer was provided as the POC for city communications.
- Tree Guidelines - Tree guidelines were recently proposed by the Landscaping committee. During the course of discussion on these guidelines, the issue of liability was raised. At the suggestion of one homeowner, Bob approached our insurance provider (Travelers Insurance) about the liability issue (see summary in Appendix I) and letter from insurance provider (Appendix II). A discussion followed with some disagreement over the Insurer's interpretation of issues raised in the letter. The Board tabled the portion of the proposed guidelines that deal with tree climbing in order to assess the liability issue and to make an informed decision on how to move forward. This effort will be coordinated by Ed Hahn in conjunction with Mark Kaye. In the meantime, Bob will research options for raising our insurance coverage, while the Landscaping committee will finalize the tree maintenance portion of the proposed guidelines. Bob will produce a map which delineates private vs. common property and shows the trees on each. This will be needed for homeowners to assess their own personal liability.

6. The next meeting will be on September 7, 2013 at Powell's (#107.) The Board meeting concluded at 9:15 a.m.

Appendix I

From: robert.donaldson@verizon.net
To: kpowellii@hotmail.com
Subject: Info from Insurance Carrier
Date: Fri, 31 May 2013 16:51:43 -0400

Keith,

Yesterday, several homeowners expressed concern over the Association's liability with tree climbing and it was suggested we contact our insurance carrier for an opinion. As Treasurer and the official policy holder of record, I contacted Travelers Insurance and spoke to an underwriter. After explaining how the association was structured, I asked if our policy would cover a catastrophic accident. The answer was complicated. Below are some bullet points to explain the issue:

1. Any judgment in excess of our policy limit would be borne by the Association and its members equally.
2. The policy only covers 3rd parties. This means outsiders or guests of homeowners, not residents.
3. Homeowners, their children and their relatives are all considered to be the policy holders and cannot sue the Association for liability on anything. They explained that you cannot sue yourself.
4. Our liability policy only covers accidents on Tollgate Common property. Accidents on homeowners private property are their responsibility and the Association cannot be sued. However, the homeowner can be sued by 3rd parties as well as other homeowners who might have an accident on their property. Individual homeowners need to be aware of their own liability risk and take appropriate precautions.
5. Today I received a letter from Travelers, see attachment, stating that we need to take affirmative steps to prevent climbing of trees on Common Property or the policy might not be renewed. I asked what would happen if we approved of climbing certain trees and they said the policy would definitely not be renewed.

In light of the above, we need to fully understand which trees are on Common property and which are on private property before issuing any guidelines so that all parties can assess their risk and take steps accordingly. We may also want to consider an outside legal opinion.

Bob Donaldson

Treasurer

Appendix II



Phone: (888) 861-3938
Fax: (888) 872-8921
Hours: 8:00 AM - 8:00 PM EST Mon. - Fri.
www.travelers.com/servicecenter/
Service.center@travelers.com

TOLLGATE HOMEOWNERS
ASSOCIATION
118 TOLLGATE WAY
FALLS CHURCH, VA 22046

May 31, 2013

TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA

Account Number: 4743J0023
Policy Number(s): 660-199N5999-13

Dear Mr. Robert Donaldson,

Thank you for contacting Travelers regarding your commercial policy. We are responding to your inquiry concerning children playing on trees and your liability should an injury occur.

Trees can be considered an "attractive nuisance", much like swimming pools or trampolines. Typically, the most effective way to address such hazards is to prevent or limit access to these areas. However, if this cannot be done, a formal written communication should be provided to residents simply stating that children should not be allowed to play on any trees. As an example, a statement regarding the trees can be posted on a bulletin board that is prominently displayed in a common area, or a letter sent to each unit owner individually.

We strongly suggest that you take the appropriate action to resolve this issue. We will follow up with you at a future date to confirm any action you may have taken to decrease the possibility of injury in relation to the trees on your property.

For other risk control information and resources, please visit www.travelers.com/riskcontrol.

Thank you.
Sincerely,

Joseph Keenan, Underwriter

Travelers Service Center

Registration Number: 408069701371051