

**Westwood Landowners' Association
Board of Directors Meeting
October 10, 2019 Monthly Meeting Minutes
Magnolia, TX 77354**

Monthly Meeting: The Board of Directors of the Westwood Landowners' Association (WWLOA) convened in a meeting open to all Members of WWLOA at the WWLOA office at 7:00pm.

Board of Directors

Present: Pat Troy, President
Rob Pinell, Vice President
Diana Maichetti, Treasurer
Mike Pidotella, Secretary

Absent: Toni Collins, Member-at-Large

Open Positions: None

Quorum was present, 4/5

Call to Order: President called the meeting to order at 7:01pm.

- 1) The Board Members introduced themselves.
- 2) Consider and Approve Meeting Minutes:
The Secretary presented the meeting minutes of the July 30, 2019 Special Meeting.
 - a) The Secretary motioned to approve the meeting minutes, the Treasurer 2nd. The motioned passed unanimously. The May 27, 2019 Special Meeting minutes were approved.
- 3) Financial Report from the Treasurer:
 - a) As of August 31, 2019 the combined Checking and Money Market balance was \$437,608.50 and accounts receivable was \$128,706.05.
 - b) We are still actively trying to do collections.
- 4) Traffic Violations Report from the Secretary:
 - a) The number of warnings or citations issued by the constables, under contract, during traffic stops while patrolling Westwood from January 01, 2019 through August 31, 2019 was 444.
- 5) Report from Constables regarding events affecting Westwood:
 - a) The constables stated there was nothing new to report
- 6) Old Business:
 - a) Open ACC Positions:

- i) The President stated that we still have one open position on the Architectural Control Committee (ACC).
- b) Deed Restrictions Exploration Workshop Update:
 - i) The President stated:
 - (1) We are currently not having the Deed Restrictions Exploration Workshops.
 - (2) We are having our attorney draft an enforcement article. We will try to get that passed.
 - (3) We need to be able to enforce the deed restrictions we have before we make any other changes. If we can't get the 51% needed to approve an enforcement article, so we can enforce the deed restrictions, there is really not a reason to write more deed restrictions.
- 7) New Business:
 - a) Appeal of Denial of Residential ACC Application:
 - i) Mr. Miller stated that he wants to raise the grade on the back of his property on Riverwood so that it stops flooding during heavy rains from the water coming down Nickaburr Creek. As development continues upstream, the water continues to get higher in his backyard. The ACC denied his application and his appeal to them. He is looking for an appeal of the ACC decision.
 - ii) The President explained that a property owner may appeal to the ACC for a denied application. If the appeal to the ACC is denied, the property owner has the opportunity to appeal to the Board. According to our bylaws, the Board is required to hold ACC appeals to the Board in an open meeting.
 - iii) The President stated:
 - (1) He attended the part of the ACC meeting where Mr. Miller's presented his appeal to the ACC. At that time it was decided to get an opinion from the Drainage Committee as some members are familiar with the drainage in that area.
 - (2) There was an existing retaining wall on Mr. Miller's property. Two additional rows of concrete block were added on top. Mr. Miller wants to bring the dirt up to the top of the retaining wall in the center and grade it so it slopes down on both sides.
 - iv) The President decided to get an opinion from the Drainage Committee as some members are familiar with the drainage in that area. The opinion of a Drainage Committee member familiar with the area was that it would not hurt anything and it would not help anything.
 - v) The President met with Mr. Miller's neighbors on the north and south side of his properties as they would potentially be affected the most. The neighbor to the north of Mr. Miller wants to do the same thing to their property. If both Mr. Miller and his neighbor on the north side raise the grade on their properties and slope it down they will create a swale. Mr. Miller's neighbor on the south side wants to do the same thing as well. However, because of the location of their swimming pool, they would only raise the grade on their property on the side that is adjacent to Mr. Miller's property.
 - vi) The President stated that there doesn't appear to be a negative effect on anybody else's property.
 - vii) The President noted the Board needs to vote on whether to uphold or overturn the ACC's denial.
 - viii) The Secretary asked the specific reason for the denial.
 - (1) The President stated:

- (a) Because of the history of flooding in that area, the ACC did not feel they were qualified to make a decision where this change could negatively affect other properties.
 - (b) It is difficult to evaluate this unless you go and look at it.
 - (c) He met with Mr. Miller and walked his property.
 - (d) He met with both neighbors and walked their property.
 - ix) The Secretary asked if we have something, in writing, from the neighbors that are ok with what Mr. Miller wants to do and want to do the same thing on their property.
 - (1) The President stated that he documented what the neighbors said.
 - x) A member asked who is on the Drainage Committee and who makes the decision on what is good and what is not.
 - (1) The President stated that the Drainage Committee is currently not active. He spoke with Merit who is very knowledgeable with that area.
 - (2) The member stated that it was just the opinion of one person.
 - (3) The President stated that we cannot tell if it will help Mr. Miller's drainage problem. But, it is not going to negatively affect his neighbors.
 - (4) The President noted that the neighbor to the south of Mr. Miller has a friend, who is an engineer, look at it and told Mr. Miller and his neighbor that the proposed change would improve the flooding situation.
 - xi) The Board voted on the appeal of the denial of the ACC application.
 - (1) The president asked - All those in favor of upholding the denial raise your hand.
 - (a) No one raised their hand.
 - (2) The president asked - All those in favor of overturning the denial and approving Mr. Miller's application raise your hand.
 - (a) All four (4) Board members attending the meeting raised their hand.
 - (3) The President stated that it carried.
 - (4) The President informed Mr. Miller that he will get a notice that the appeal was upheld and the denial was overturned.
- b) Summarize Board Actions:
- i) The President stated that the Board is required to state in an open meeting those Board actions that were made outside of an open meeting.
 - ii) The President listed the following:
 - (1) Approved trimming and removal of trees located at Nickaburr Park, Oak Bluff Park and WWLOA property on Mahogany Way for \$1050.00.
 - (2) Approved office water heater plumbing/venting repair for \$550.00. Gas Company determined it was not installed per code and shut it down.
 - (3) Approved new locks on gates at all three pools for increased security for pool monitors and guest for \$646.25.
 - (4) Approved 1 commercial ACC application (Express Oil Change on Tamina).
- c) New Office Assistant
- i) The President stated that we hired a new office assistant, Jodie Cash, to replace Hanna Herring who resigned.
- d) Annual Halloween Haunted House

- i) The President announced we are planning our annual Halloween Haunted House. Anyone that would like to help with setting up and / or helping during the event should contact the office.

- 8) Open Forum for those members signed-up to address the Board:
 - a) The President stated that Mr. Miller was the only person that signed up to address the board and we previously addressed his ACC appeal.

- 9) Since no one else signed up to address the Board with their comments and/or questions the President opened the meeting to any other members that would like to make a comment or ask a question.
 - a) A member asked about area crime and safety.
 - i) The constable responded saying it's all about opportunity. Keep your house and car doors locked and your garage door down when you are gone. With the holidays coming up there is going to be more activity with looking for delivered packages left outside and boxes in view in the trash indicating what you have in the house.
 - ii) A member asked the constable if there have been any break-ins reported in the neighborhood in the last 30 days.
 - (1) The Constable replied that there have been none that she is aware of.
 - iii) A member stated that they use the Simply Safe security system and they are happy with it. They noted that monitoring is optional.

- 10) The President asked if anyone else would like to say something. No one replied.

- 11) The President asked if there were any pending matters for possible placement on future meeting agendas.
 - a) A member asked what can be done to get people to stop parking on their grass since it looks trashy and it is getting out of control.
 - i) The President stated that he thinks our Guidelines are clear enough about it and we should be able to enforce it but there is some debate about that.
 - ii) The Secretary stated that first we need to be able to enforce the deed restrictions we have with an amendment that authorizes a fine schedule. Then we can pursue the required 51% approval to add deed restrictions desired by the community.
 - iii) The President noted that without the ability to assess fines our only option is to take people to court. Then, on day we go to court, all they have to do is move their vehicles and say they don't have any vehicles parked on the grass. They would win the case and the LOA would need to pay our attorney's fees for nothing.
 - iv) The Treasurer stated that we would also have to pay their attorney's fees.
 - b) The member asked if the LOA could send them a letter.
 - i) The President stated yes, the office could send them a letter, but there is no way to enforce it.
 - c) A member stated that he previously lived in Lake Windcrest and a couple years ago they went through this and put together a process for fining people for violations.
 - i) The Secretary stated that he has reviewed Lake Windcrest's deed restrictions, as well as the deed restrictions for other nearby communities. The Secretary noted that Lake Windcrest was able to do that because their deed restrictions specifically authorize them to have a fine schedule for enforcing violations. This is what Westwood needs. We need 51% of each

- section to approve an amendment to their section's deed restrictions to authorize the LOA to establish a fine schedule for violations.
- ii) The President noted that we put a fine schedule in our bylaws. Our attorney advised us to not enforce it because our deed restrictions do not give the LOA the authority to enforce fines for violations.
- d) A member asked; why even have deed restrictions when you can't enforce them.
- i) The Secretary commented that the Board does not have an answer to that question. The question should be directed to Landcraft, the developers of Westwood, who established our deed restrictions back in the late 1970's.
- e) A member asked if the LOA is currently sending out letters notifying people of deed restriction violations.
- i) The President stated that the letters are not effective because we cannot follow up with anything except take them to court.
 - ii) The member commented he has received letters from other communities, where he lived, that were about minor things that he had overlooked. The letters served as a reminder for him to correct the issue. The member suggested that there may be a substantial number of people that, once they are reminded, will correct the violation.
 - iii) The Treasurer and the Secretary both responded, no.
 - iv) The Member commented that he knows that there are always the hard core people but he does not know of any personally. He stated everyone wants to be a good neighbor and that most people would want these things brought to their attention. The Member added, if we don't have the where with all to send out letters, why are we bothering with the idea of a fine schedule.
 - v) The President replied that then we could send out a letter stating if you do not correct the violation the LOA will fine you.
 - vi) The member stated that he believes most people will be a little reluctant to vote to implement fines. He suggested that the LOA establish some data about how many letters were sent and how effective they were to help demonstrate the problem and show the need for a fine schedule.
 - vii) The Secretary agreed that it would be good information to have to help support the need for an amendment to the deed restrictions to authorize the LOA to implement a fine schedule.
 - viii) The Treasurer commented that some people react positively when the courtesy patrol brings a violation to their attention and are appreciative and correct the violation. It is the hardcore people that ignore multiple letters from the LOA and our attorney. In these cases where many hours are spent writing letters over multiple years and nothing is able to be done. The Treasurer discussed one specific example where many letters were sent from both the LOA and our attorney. The problem impacted several neighbors and went on over 10 years. The board took it to court. Prior to the court date the property owner cleaned up the property and obtained a septic maintenance contract that he did not have for years.
 - ix) The President commented that in this case, the court awarded the LOA \$100. That allowed the court to award the LOA \$5,000 for attorney's fees which were less than 25% of what the LOA spent. The LOA was also awarded an additional \$650. because of something related with him getting a postponement from the original case. It was during this time when he cleaned up the property.
 - x) The Treasurer noted that we were able to get that because the neighbors had taken years of pictures and were able to come to court to support the LOA's case.

- xi) The President added that boards have been trying to deal with this particular issue for over 9 years. When we got involved with it, it took over a year to get into court. We would not have been awarded anything if we did not have the neighbors, which were impacted, showing up in court and testifying.
 - xii) Both the President and the Treasurer commented that pictures from the LOA typically do not have the same impact as those from neighbors. Courts tend to favor the property owner over the LOA. The neighbors willing to go to court and testify with their pictures enabled the LOA to win the case.
 - xiii) The President said that the LOA still has not received any of the money we were awarded. The President noted that we did accomplish having the court issue a court order that he must maintain a septic contract. If he does not, he will not only be in violation of Montgomery Country rules and regulations, he will be in violation of a court order. Also, the court order requires him to maintain his yard. The President added that it took a long time, and was expensive to accomplish this.
- 12) The President asked if there were any other question or comments. No one replied.
- 13) The Treasurer made a motion to adjourn, the Secretary 2nd. The motioned passed unanimously. The President adjourned the meeting at 7:47pm.