

Sept. 18, 2014 Meeting Minutes

Home Owners Signed In

Denae Bastian called the meeting to order at 7:04 pm and announced that we had a quorum for the meeting.

Board members present: Denae Bastian, Michelle Haneberg, and Shelley Logan

Welcome and Introduction: Denae welcomed all homeowners and expressed appreciation for the use of Totem Falls Elementary and the cooperation of Mr. Cosgrove and other staff members who assisted us in having what we needed for this important meeting. Each board member took a couple minutes to introduce themselves for the benefit of those who are new to our neighborhood and/or new to our meetings.

Homeowners in Attendance: Sanda Ewalt, Doug Speer, Caig & Suzanne Buchanan, Karen Frost, Sam Grant, Sherry & Nate Cuddy, Penni Johnson, Linda Lillard, Ken Krause, Keri Newby, Shannon Harvill, Sheryl Bullard, Bob Cooke, Nancy Guthrie, Doug & Leticia Holleman, Diane & Mark Yocom, Reiner & Char Gobel, Denise Krell, Jason Melton, Ric Newgard, Jennifer Windau, Lori Witucki, Ray & Carol Bechard, Jason Ross, Pressie Fernandez, John Logan, Phil Bastian, Colleen & Tom Ferrari, Jacob Britt, Susan Ridley

Announcement: Denae announced that the meeting would be recorded with an mp3 recorder (sound only) to better help the secretary complete the minutes.

Motion was made by Denae Bastian to approve the meeting minutes from the July 30, 2014 board meeting (there was no August board meeting). Michelle Haneberg seconded the motion. The motion was approved unanimously.

Financial Report presented by Shelley Logan

Operating Budget Balance: \$41,782.26

Reserve Allocation Total: \$89,368.58

Expenses Paid in Aug & Sept. 2014:

Archey's Landscape Cleanup Projects—Removal of dilapidated and unsafe picnic tables from the trails (Aug.): \$355.88

Archey's Landscape Monthly Maintenance (Aug.): \$3,285.00

AAdvantage Pest Control (Sept.): \$213.53 (Hornets nest and huge ant hill removed.)

Ferrin Electric (Aug.): \$985.50

McGoorty Eisenman (Aug.) \$1,100.00

Silver Lake Water (Combined total for Aug. & Sept.): \$197.40

Supplies: (Postage, Printing, etc.): \$99.39

Reserve Allocation (Combined total for Aug. & Sept.): \$4,436.84

PUD (Sept.): \$355.10

Aynax (Combined total for Aug. & Sept.): \$19.90

Homeowner refund: \$2.50 for overpayment of dues

Motion was made by Michelle Haneberg to accept payment plans and to waive late fees due to financial hardship for those discussed in executive session. Shelley Logan seconded the motion and it was approved unanimously.

Motion was made by Denae Bastian to have an executive session prior to the next board meeting. Michelle Haneberg seconded the motion and it was approved unanimously.

Motion was made by Shelley Logan to adopt CC&R Article III Enforcement List (developed at July 2014 Board Meeting with homeowner input) which includes timeline for compliance corrections. Denae Bastian seconded the motion and it was approved unanimously.

Denae Bastian further explained that the compliance correction times are variable dependent upon the issue. Previously, there was a 60 day time period for all correction items and prior to that, it was 30 days for all corrections.

Update on Repair of Footbridges was given by Denae Bastian. It is disappointing to report that the county is requiring that we comply with the full permitting process to make repairs to the three footbridges located in the trails. Fish and Wildlife (F & W) thought the county would allow an exemption to the permitting process, but the county will not and is requiring us to do all the work one would do if they were to build new bridges, not just repair bridges. We want to have ramps built to accommodate bikes and strollers. We are continuing to work with the county to get these bridges repaired for the safe use of all.

Fence Advisory Team - Denae Bastian turned the time over to the Fence Advisory Team to share their findings with us pertaining to the history of The Falls common area fences and legal and viable options for replacement.

Announcement was made by Denae Bastian that no decisions would be made about the fence this evening.

Denae Bastian introduced the Team Leader, John Logan, to begin the presentation. The team was welcomed with a warm round of applause.

Note: The Fence Advisory Team presentation and materials used for the report are available on The Falls website: <http://www.thefalls-schoa.com/>

Fence Advisory Team Presentation included:

◆ Current Condition of Fences - presented by Susan Ridley

Susan Ridley reported (while showing a slide show with many pictures of the fences):

1. The fence is currently in various states of disrepair and in a deplorable condition.
2. The fence is mostly falling down.
3. A few sections of the fence along Sno-Cascade Dr. have been replaced by some homeowners.
4. Gates have been cut into the fence to access homeowner backyards.
5. The fence has sections cut out where trees are growing up right next it.
6. It is obvious that the fence needs to be replaced.

◆ The Falls Fence History - presented by John Logan

John Logan reported:

1. From 1990 to 2009, there is an extensive written record pertaining to the common area fence for all to see, read, and understand. There is no need for speculation on what was done, who did it, or why.

2. The team looked at every document available that mentioned the fence. These documents included board meeting minutes, official newsletters, and legal documents commissioned or obtained by various boards.

3. In looking at written history, until 2009, nearly every mention of the fence was in the context of “the board” making repairs, planning repairs, planning replacement, financing replacement, or completing repairs and replacement. *Please refer to examples of these that are sighted in the Powerpoint on The Falls website.*

Some sources that were cited included:

a. 1994 Invoice from Cascade Fence to SCHOA Board in excess of \$10,000.00 for 1000 linear feet of common area fencing, including replacing boards and painting

b. Aug. 1995 Meeting Minutes--SCHOA Board paid for 326 fence panels to be replaced on the common area fence at a cost of \$1500.00

c. March 2000 Meeting Minutes reflect that over a mile of fence line was painted and the cost is reflected in the document (planned, painted, completed and paid for by SCHOA Board)

d. Jan. 2003--100 feet of common area fence and posts were replaced—approved by the Board

e. April 2005 Meeting Minutes—sections of the common area fence were replaced due to storm damage

f. Numerous documents exist that show the SCHOA Board assuming responsibility for everything related to the common area fence.

g. In looking at 19 years of documents and beyond, it was ***never not*** referred to as “the common area fence”.

4. In **2009**, homeowners that lived in The Falls for many years saw a noticeable change. The board indicated that they may discontinue accepting sole responsibility for the common area fence repair and maintenance as they had clearly done prior to that.

5. **May 13, 2009** The board raises “PROBLEM: In the past, the Association as a whole ***has paid for repair of the common fence*** along Snohomish Cascade Dr & Puget Park Drive. Given our financial situation, should the Association require homeowners along the common fence to pay for repairs to their portion of the fence?” This is the first actual recorded instance of the board communicating a change in thinking regarding their responsibility in maintaining the common area fences. Why the change?

6. **May 2010** Letter went to all homeowners from the board notifying homeowners that the association was \$30,000.00 in the hole due to a failed experiment with a property management company which the board terminated. The board reported that essential immediate changes were needed to improve the financial situation. The board stated “we have no reserves to deal with common area fence issues at this time.”

7. **Sept. 12, 2010** Board sends a letter to homeowners.

Solution: Fences will be replaced with a new, attractive and stronger design as a result of raising the annual maintenance assessment. The board anticipated having to replace the fence, so half of the required money was collected in 2010 (by raising dues) with the remainder to be collected in dues received in 2011.

8. **Aug. 3, 2011** The board referenced a poll taken in 2010. The board reported the result of that poll indicated that homeowners preferred that fence owners cover half the cost of replacement and the association cover the other half of the cost of the common area fences. The board went on to say that the process works well as long as each owner pays their 50% share. Then, the board identified a huge issue. "the problem we face is if any owner fails to pay..."

◆ Research & Advisory Team Charge presented by John Logan

March 2014--Board puts together a team of homeowners with a charge to recommend **legal and viable** options for replacing the fence.

(See Powerpoint slide for complete details of the charge from SCHOA Board)

◆ Research & Advisory Process presented by Jacob Britt

Jacob Britt reported:

Step 1: The team came together with varying backgrounds, history, and perceptions regarding the fence and decided to approach this from a linear or common sense fashion. Jacob Britt explained that the team established ground rules according to the charge given to them by the board.

Step 2: As a group, the team reviewed all of the official documentation of past boards regarding the fence so that everyone on the team had a common understanding of the fence's history.

Step 3: The team recommended a boundary survey be done (such a survey had never been done before) to determine clearly where the fence was located - in the right of way or on private lots.

Step 4: The team was charged to come up with legal *and* viable options for fence replacement. They also investigated construction funding options.

Note: As the team met over the past few months it became clear that finding an option that would satisfy everyone was impossible. The team realized that it may be looking for a silver bullet that probably does not exist. The team therefore looked for options that were best for the community as a whole.

Boundary Survey Results

Reading the Survey:

The dotted lines represent the homeowner property lines. The solid line is the current location of the fence. Marked measurements show the gap distances between the solid and dotted lines. (Please see pdfs of survey on The Falls website.)

The survey shows that the fence meanders along the boundary line shared by the right of way and private lots - generally, within a foot or less. (See Figure 1 in Powerpoint) However, on the east side of Snohomish Cascade Drive between Cascade Dr and 141st ST SE, the fence is located approximately 4 feet into the common area. Also, at the main entrance by the waterfall, the fences were placed well onto homeowner property at the top of the hill to preserve the function of the fence for the homeowner. If it was built on the property line, the 6 foot fence would have been below a 10 foot hill serving no purpose.

The grade of the land significantly impacted placement of the fences (see Figures 2 & 3).

Proposals

The team brainstormed all kinds of ideas. (Hedges rather than fences, etc.)

The team looked at financing options and requirements.

Every option had some risk.

Many solutions led back to CC&R changes.

The team studied the CC&R's for clarification, intention, and definition of terms.

The team looked at the possibility of CC&R changes and the difficulty involved.

Taking everything into consideration, the team narrowed down all possibilities to three options.

1. HOA paying 100% of Fence
2. Cost Sharing 50/50 HOA and Owners along the right of way (requires CC&R changes)
3. Homeowner Solely responsible for Fence (requires CC&R changes)

All of these options:

1. Will cost the HOA money - replacement costs/enforcement costs/legal services.
2. Will have an impact on homeowners.
3. Will impact the overall community.
4. Require us to work together.

◆ Proposal Review (Pros and Cons) presented by Colleen Ferrari

Colleen described the Pros and Cons of each of the three options considered by the team *(for exact details of this portion of the presentation, please see the Powerpoint Presentation on The Falls website).*

◆ Legal Review of Proposed Options presented by Phil Bastian

Phil Bastian, an attorney and homeowner on the right of way, provided a legal analysis of the proposed options on behalf of the team. He concluded that the fence could be replaced by the HOA at its sole cost without a CCR change. The cost sharing option would require a CCR change as would the option for homeowners paying all. His complete analysis is posted on the website. Independent legal counsel has reviewed and concurs with this legal analysis (see website).

Meeting Adjourned by Denae Bastian at 7:58 pm

A Question & Answer Period began at 8:00 pm - The team stayed to answer any clarifying questions regarding their presentation. Board members answered questions when necessary.