

**3 CHERRY WAY HOMEOWNERS ASSOCIATION BOARD OF DIRECTORS
MEETING MINUTES OF MARCH 12, 2024**

1. CALL TO ORDER:

The meeting was called to order by T. Smith March 12, 2024, at 6:30 PM in the 3 Cherry Way Community Center. T. Smith informed the group that the meeting was being recorded to ensure quality and accuracy in our minutes.

2. ROLL CALL:

A roll call was taken of the Board of Director members by M. Barnes, Recording Secretary. As indicated below, there were five directors in attendance, a quorum.

<u>OFFICE</u>	<u>OFFICER</u>	<u>ATTENDANCE</u>
President	Tony Smith	Yes
Vice President	Jim Dellinger	Yes
Treasurer	Karry Brockman	Yes
Recording Secretary	Marge Barnes	Yes
Corresponding Secretary	Jim Mercier	Yes

3. AGENDA APPROVAL:

A. J. Dellinger/K. Brockman: Motion to approve the meeting agenda (With additions or deletions)
Passed, unanimously.

4. APPROVE MINUTES:

A. M. Barnes/J. Mercier: Motion to approve the February 13, 2024, 3CW Standard BOD Meeting Minutes.
Passed, unanimously.

5. OLD BUSINESS: None.

6. NEW BUSINESS:

A. Violation Compliance and Enforcement Policy and Procedures.

1. *BOD Comment: J. Mercier:*

- i) The Violation Compliance Policy and Procedures was approved at the February 13, 2024, 3CW HOA BOD Meeting.
- ii) If there are violations, there will be violation notifications sent out to the homeowner.
- iii) The policy and procedure and the Fees/Fines Schedule are on the 3 Cherry Way HOA website.
- iv) The Fees/Fines shows the amount of the fines as you progress through the violation procedure.

2. *BOD Comment: T. Smith:*

- i) We live in a community with an HOA with Rules and Regulations, CC&Rs and Bylaws, etc. and in order for those Governing Documents to mean anything we have to have a way to enforce them.
- ii) This Policy and Procedures is to make sure that whatever is done in the community is done fairly, evenly across the community.

B. K. Brockman/J. Dellinger: Receive and File the Audit Committee Letter on completed financial audit of the 3 Cherry Way General Operating and Reserve accounts for the period January 2023 through December 2023.
Passed, unanimously.

1. *BOD Comment: K. Brockman:*

- i) The BOD made a decision that the Audit would be a self-Audit performed by the Committee:
(1) Curt Hendricks, Charles George and Margaret Schultz all have good auditing skills.
- ii) We picked 3 months of the year 2023 and audited those.

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- iii) This letter confirms what we checked, and all members of the Committee signed the letter.
- iv) The decision to do a self-Audit was made as opposed to hiring an independent CPA to perform the Audit, which the cost would range from \$2,000.00 to \$5,000.00.
- v) This letter is confirmation of the fact that the audit was performed.

2. *BOD Comment: T. Smith:*

- i) The Bylaws currently say that we need to do a CPA audit by February 28.
 - (1) When we contacted the audit companies, the CPA's would not have been able to compile the information and complete the Audit by February 28.
 - (2) We checked with our attorney and opted to do the self-Audit.
 - (3) The CPA audit is not a required audit.
 - (a) The Bylaws, state if it is done, it needs to be done by February 28.

C. K. Brockman/J. Mercier: Receive and File Resolution Without a Meeting for Bean Brothers Landscaping, LLC, 969 Reepsville Rd., Lincolnton, NC 28093 to repair/upgrade the drainage at the end of Lambert Ct. at a cost not to exceed \$9,000.00. Passed, unanimously.

D. M. Barnes/J. Mercier: Receive and File Resolution Without a Meeting for Bean Brothers Landscaping, LLC, 969 Reepsville Rd., Lincolnton, NC 28093 to repair/upgrade the drainage at the end of Rainier Dr. next to the Storage Lot at a cost not to exceed \$17,000.00. Passed, unanimously.

E. K. Brockman/M. Barnes: Receive and File Resolution Without a Meeting for Mr. Handyman of Mooresville, 121 N. Commercial Dr., Suite C., Mooresville, NC 28115 to take a sample (30%) of each of the buildings in each stage of development and identify trends in repair needs at a cost not to exceed \$1500.00. Passed, unanimously.

F. K. Brockman/J. Mercier: Receive and file 3 Cherry Way Townhome Maintenance Responsibility List. Passed, 4 to 1.

1. *BOD Comment: T. Smith:*

- i) This list was done so that the community could ascertain who is responsible for replacing/repairing our homes, the HOA or the homeowner.
- ii) If you find an item on the list that you disagree with or an item that is missing from the list, please let the BOD know. The list is not cast in stone and can be changed.
- iii) The HOA will treat everyone the same and not repair an item for one person then not repair that same item for another person.

G. May 16, 2024, General Membership Meeting Location and Time Changes.

1. *BOD Comments: J. Mercier:*

- i) The BOD had a discussion about how we could come up with better voter participation at General Membership Meetings.
- ii) We are proposing CC&R changes this May, which requires 67% affirmative vote to pass, which is 134 voting Members.
 - (1) We have changed the schedule:
 - (2) The meeting will begin at 1:00 pm with registration beginning at 12:30 pm.
 - (3) Registration will close at 6:00 pm and voting will stop at 6:30 pm.
 - (4) The vote count will begin. If we have 134 voting members, the vote for CC&R changes will be counted.
- iii) In the middle of April, you will be receiving the Meeting Notification package.

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(1) This will have the Agenda, the proposed CC&R changes, the candidates running for the BOD and the ACC, and the Proxy Form.

2. *BOD Comment: T. Smith:*

- i) Instead of having to go to Unity Presbyterian Church the meeting will be held here in the Clubhouse.
- ii) Jim Mercier and the people who are designated to help register the Members and count the votes will have a long day as they will be here from 12:30 pm until the vote compilation is completed along with the BOD members.
- iii) The proposed CC&R amendments will be out to you in the next week or so. Please take a look at those.
- iv) We will schedule an Open Forum meeting to come back in and talk about the proposed changes.

3. *BOD Comment: J. Dellinger:* In case you think sixty-seven percent (67%) of the membership is unreasonable, the legislature set that bar. It is in our CC&Rs, and the CC&Rs follow the statute. You cannot change the CC&Rs without sixty-seven (67%) of the membership voting in the affirmative.

7. TREASURERS REPORT (K. Brockman)

A. K. Brockman/J. Mercier: Receive and file Superior Mgt. January 2024 financials documents.

Passed unanimously.

- 1. This is for January 2024 only.
- 2. We exceeded our income budget. This budget is 1/12 of our annual budget. So, it is a straight-line budget through all of these items.
- 3. Expenses – all of these categories were less than what we had budgeted for the month.
 - a) We underspent the budget by \$14,000.00.
- 4. Net income - \$23,090.00.
- 5. Assets:
 - i) We ended the month with a little over \$70,000.00 in our Operating Account.
 - ii) There is \$10,366.00 in our Pre-reserve Account.
 - iii) The S. A. Stone Account has \$1,061,395.00.
 - iv) Total assets comes in at \$1,142,470.00.

8. OFFICERS' STATUS REPORTS:

A. T. Smith, President:

- 1. We previously talked about the May 16, 2024, General Membership Meeting. We hope a lot more of us will turn out and participate.
 - i) There are three (3) positions on the BOD that require an election for those positions. So, if you are interested in serving on the BOD, get your applications turned in no later than March 31, 2024.
 - ii) There are three (3) positions on the ACC that also require an election for those positions. Again, if you are interested in serving on the ACC, please get your applications turned in no later than March 31, 2024. These are one-year positions and require an election to be on the ACC.
 - (1) Lisa Timberlake has been the sole person working on the ACC and she has done a great job all by herself.
 - (2) We set up the Landscape Management Ad hoc Committee to help her, and Cindy Dubac, Pat Mercier and Melanie Mellenthien are on that committee.
- 2. We are looking at several conditions within the community to try and see what we can do to keep us up to par as far as the beautification and problems in the community.
 - i) Drainage – we are looking at more areas that have drainage issues other than the two we spoke of earlier tonight.

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- ii) Lighting Issues – We have different colored streetlights in the community.
 - (1) There is one solution where Energy United will replace them for free, but not until they burn out.
 - (2) Or go through and pay for it and get them all to match.
- iii) Concrete Issues - There are busted concrete in many areas in the community. We have been in discussions with another company similar to Mr. Handyman that does the same things with concrete.
- 3. I want to give kudos to the Ad hoc Committees. They are working hard and doing several things.
 - i) If you would like to help, we will find a great spot for you on one of the committees.
- 4. The Beach
 - i) I talked to one of the construction guys and asked him what his schedule was.
 - ii) They want to finish their work by the end of August 2024.
 - iii) They are not allowed to work on the pier and the sand for the beach until June 2024.
 - iv) I talked to one of the new County Commissioners and, according to him, the grand opening is scheduled for May 2025.
 - v) We will be working as closely as we can with the County Commissioners and the Sheriff's Office and see what we can find out about no parking, people coming in here to hang out, etc.

B. J. Dellinger, Vice-President:

- 1. The grass is a little long and Bean Bros. will be here tomorrow to cut grass, and if you haven't noticed they are bagging the grass.
- 2. Hopefully, everything will get equaled out as the season progresses.
- 3. There is a light burned out on the front monument as you drive into Royal Anne. I have informed Bean Bros., who put the light in, to either change the bulb or change the fixture.
- 4. I have not heard that the mulch schedule has changed any. Weather can move it out a few days.
 - i) Right now, it is scheduled for the last two weeks of March. It will not all be put down at one time.
 - ii) I don't know where they are going to start or finish, but they will not be doing a "hopscotch" method of going from one end of the community and then starting again at a point in the opposite direction.
 - iii) We will try to give you information so you can move your yard art.
 - iv) If you see them putting mulch down in your area, please move items that will be in their way.

C. K. Brockman, Treasurer:

- 1. Next month we have a CD that will mature.
 - a We'll be looking at how best to invest that money along with any other funds in the pre-reserve account.
 - b As of today, I got some information from Michael Ames, who is the person we work with in selecting our investments. Fortunately, rates are still favorable in the 4.5% to 5% range.
 - c Chuck George has spent a great deal of time studying the interest that we earn from all of our investments. He has put together a spreadsheet that provides a lot of detail looking out this year.
 - d There are two more CDs that will mature later this year.
 - e We are looking at both short and long-term strategies for investing in CDs to get the best interest we can.

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9. RESIDENTS COMMENTS/Q & A:

- A.** Karen Newman, 8967 Vandalay Dr., I am looking for a follow-up about the cameras and the Clubhouse doors not being locked at night. *BOD Comment: T. Smith:* We are still looking at the cameras as far as the best we can find. We have guidance from our attorney as to how they need to be set up so that they do not encroach on anyone's privacy. We do not have anyone that will come down and make sure the doors are locked at night. So, we are asking if you are down here early to late evening, please go ahead and lock up.
- B.** Cindy Dubac, 8350 Ulster Ct., With the mulch coming in, a lot of the flower beds have a lot of weeds. Are they planning on removing the weeds before they put down the mulch? There are several homes where the drainage issues are so severe that the money to put down the mulch will be wasted because within less than a month the mulch will be washed away. *BOD Comment: J. Dellinger:* As far as I know there is a plan to remove the weeds, but the weeds grow very quickly. We will do our best, but we are at nature's mercy. The other question was erosion. I am supposed to meet with a representative of Bean Bros. to identify those places where the mulch is washing away. We will not put the mulch down or try to come up with some temporary way to preserve mulch. Hopefully, they will not put mulch down unless it is practical to put it down.
- C.** Cheryl Burch, 8247 Lambert Ct., When will construction begin on our drainage issue on Lambert Ct.? *BOD Comment: J. Dellinger:* We don't have a date yet, but we have made the deposits. We will let you know.
- D.** John Gabor, 2375 Stardust Ct.,
1. You've just spent \$26,000.00 on drainage issues:
 - i) Did you take any bids?
 - ii) Is \$26,000.00 for a planned expense? Is it in the Budget? What GL is it going in?
 - iii) *BOD Comment: K. Brockman:* The Budget contains a GL for Landscape Maintenance, and it was planned for that Budget. As far as the bids are concerned, we do different things depending on the situation involved. Sometimes we get multiple bids and sometimes we don't. Sometimes when we don't get multiple bids it is based on experience, the need to move rather quickly, or other matters that come into play. There is a little bit of a variable as to spending the time to get multiple quotes. In some cases it is difficult to get contractors to come and/or some do not want to do the work. Sometimes it is based on experience we have had with working with contractors that we have used before. In this case, it was Bean Bros.
 2. I noticed on the Townhouse Maintenance List that there was not a line item for electrical, water, gas or sewer supply lines. Is that still in the making? Who is responsible for those supply lines. Is it the homeowner or the HOA? I am assuming that this will be updated again. *BOD Comment: T. Smith:* We are still working on this list. We are trying to find out where all of these lines run. We are having trouble even with the County showing where these lines are run. Yes, the list will be updated.
 3. Another item on the same list is Dormer Repair, which you assigned to the homeowner. I don't understand this; the dormers are exterior. If you are doing painting and gutters, why would you not repair the dormer? If the siding and the wood under the siding is rotting out, that is the homeowner's responsibility? *BOD Comment: T. Smith:* Painting and gutters does not include removal and repair, which is what we are talking about. An issue we are running into is that we are not condos, but townhomes, which means you own the entire home. You own the inside walls, the outside walls, you own the porch, you own the gutters, the downspouts and the roof. We checked with our attorney. We have looked at the CC&Rs and they state that the HOA may

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fix things. The more the HOA fixes, the more our dues go up. The Declarant and the previous BOD set a precedent that we will paint, and we will maintain the roofs. That is a great idea, because that gives us consistency in color and the roof type. One of the things to consider when you are looking at this is how much do we want to pay in the Community for our HOA fees to provide ourselves with the luxury of repairs. The HOA can elect to fix it all. Trilogy's dues are \$500.00 to \$600.00 a month. If we decide the HOA is not going to repair these things, you are gambling that your unit will not be the one to mess up. The dormers were looked at. They were not installed properly. It is not an HOA issue. We didn't install them, the builder did. The attorney said we could go after the builder, but it will cost you \$5,000.00 in retainer fees to start looking. If there are items on this Maintenance List that you question, please let us know. We have the attorney letter that states we do not have to do dormer repairs. *BOD Comment: K. Brockman:* One thing to keep in mind is that your insurance may pay for the repairs to the dormer. That could be overlooked in your thinking.

4. Concerning the new construction behind the pond, do we have any issues or liabilities because of that. *BOD Comment: T. Smith:* I talked to the gentleman that is building on the lot across the street on the lake front, and they have no issues at all. I spoke with the lady who is building on this side behind the pond, I just asked her straight up, you know we are draining water onto your property, are you okay? Her comment was she has talked to people that do construction and drainage and they can do it. From talking with the construction and drainage experienced contractors, Dellinger did it appropriately. The people who own the lot bought it knowing that our pipe discharged onto their land. Where the pipe comes out on their property, they are going to have to build a dry creek bed that goes down between the properties to drain into the lake.

E. Kim and Michael Williams, 2257 Early Robin Dr.,

1. Concerning the Maintenance List, I disagree about the brick. It would be difficult to match the brick so that it matches the other homes in the Community. I don't understand how a homeowner is responsible for that. It is on the exterior, so if the roof is covered but not the brick and the dormers as well. Will there be any discussions on the Maintenance List? *BOD Comment: T. Smith:* We have found the brick that was used on all of the houses in the community. The brick is made in batches. The next batch is coming up this month. To Kim's point, let us study to see what we can come up with and what it would cost to add things to our own HOA coverage. The Reserve Study said that to keep up with what we need for the reserves, and that is \$12.00 a month increase in dues each year for each home. That is just the reserves, not the operating costs. This is without adding any additional expenses at all. *BOD Comment: K. Brockman:* In addition to knowing the color of the brick, we also have color for the siding. We have identified and have those.
2. Recently, we had a so-called termite inspection. Our home was not inspected, and they only sprayed the front of the house. They did not spray the side and we had this problem last year, and they came back out and sprayed the side. Also, they only sprayed what was reachable from the street. *BOD Comment: K. Brockman:* My understanding is that they only spray the perimeter of the house. I will give them a call. Basically, they do not inspect as such. They spray. The term, termite inspection, gets applied to this, but it is a spraying process. Just as a precaution, I wouldn't recommend that you get your own termite treatment because Dellinger Exterminators is the one that originally treated your house and the land under your house. There is a certificate they use for that, and it is on the website. If you use some other company to do a termite treatment, it voids that certificate with Dellinger Exterminators. As far as the perimeter of the house, we want to treat that once a year. You pay \$50.00 a year as an assessment for that service. It is required to maintain the certification for all of the homes in the community.

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3. The white fence that is down at the end of Early Robin Dr. needs to be cleaned. I would like to make a recommendation that we get those white fences pressure washed at least once a year. *BOD Comment: T. Smith:* We will look into that. Jim McClellan and I are on the Neighborhood Beautification Ad hoc Committee. It may be something we could get done for now before we figure out long-term.
- F. Susie Williams, 8891 Sweet Cherry Ln., I just wanted to make a comment about the spraying. They walked into the middle of the yard and sprayed lightly, and it didn't hit anything except the bushes.
- G. Cathy Bright, 8821 Vandalay Dr., I asked the sprayers what it was they were doing. They said they were spraying for bugs not termites. They were in a Dellinger Exterminators truck. *BOD Comment: T. Smith:* Let us get in contact with Dellinger Exterminators and ask them to give us a run down on how they spray.
- H. Bruce Lowe, 8721 Vandalay Dr.,
1. Concerning Dellinger Exterminators spraying for bugs, it is not clear why we are locked in with Dellinger because they did the original work. *BOD Comment: T. Smith:* I used Dellinger at my old house. They did the original spraying and came out once a year for an additional spray. I dropped that yearly spraying. I had a \$20,000.00 warranty on my home for termites. As soon as I dropped the yearly spraying, the warranty was no longer valid. We need to find out what kind of warranty they are giving us on our homes. When you change companies, you have to treat the house like it has never been treated before.
 2. My next question is for Jim Dellinger. Regarding the weekly or biweekly lawn maintenance, do we know what their schedule is going to be. *BOD Comment: J. Dellinger:* Bean Bros. will be here weekly on Wednesdays and Thursdays weather permitting. *BOD Comment: T. Smith:* We are going into the weekly cutting season, which was not being done in January and February. They promise us that they are going to take control of this place. So, we need to give them time to do that.
- I. Rich Lodge, 2505 Tulare Ct.,
1. The fence that runs along Rainier. I know at one time you all were talking to the other HOA for the homes behind that fence. Are you making any progress with that? That fence is abysmal. Are there any County rules that could be used? *BOD Comment: T. Smith:* Either they don't exist, or they don't want to talk to us. *BOD Comment: J. Dellinger:* We are not aware of any County rules or regulations.
 2. The Beach. *BOD Comment: T. Smith:* One of the things we are talking about are No Parking signs. We have talked to the Sheriff's Department about highly increased coverage along Unity Church Road by them during the beach season. There was some talk about having no-cruising laws. We are talking about blocking the large grassy area along Normandy to prevent people from parking there. Jim Dellinger is working on drawing up paperwork that will allow us to have cars towed if they park in here. They would have to pay the towing company to have their car returned. *BOD Comment: J. Dellinger:* The County Sheriff's Department is authorized by statute (the statute number is on the No Trespassing sign), to arrest people for third-degree trespassing.
 3. Wasn't there some talk about putting in gates for the community? *BOD Comment: J. Dellinger:* We cannot afford them. *BOD Comment: T. Smith:* We haven't pursued that any further. One of the things I did independently, not as the BOD, was just to see what it would take to fence and gate the community. I just asked people who install fencing, and the price is \$200,000.00. That's a \$1,000.00 assessment per person to do that.

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- J.** Judith Hahn, 8220 Symphony Ct., Concerning the Beach, we are getting another traffic study done and people are being very cooperative. *BOD Comment: T. Smith:* Judith Hahn has worried the NC Legislature, the County Commissioners, the Sheriff and the DOC.
- K.** Phyllis Wilson, 8348 Glacier Dr., My question is regarding the Voting and Election Policy and Procedures changes that was mentioned at the last meeting. We did receive a draft via email and some of the changes were just cosmetic, but two of the primary things were changed. We went from having a candidate having no late assessments in order to apply for a position on the BOD or the ACC. Now the new policy, or at least the draft we received, states that a candidate can be up to ninety days in arrears. I don't think that sets a good standard for our community. *BOD Comment: J. Mercier:* That is not what it is saying. It states that in order to apply for a position on the BOD or ACC, you cannot be more than ninety days in arrears on any assessments. Phyllis Wilson: Why was this changed? *Curt Hendricks:* The previous document stated that you could not have been late at any time within the previous year prior to their applying for a position. The current document changed the time frame. So, the current document states that you could not have been late at any time within the previous ninety days prior to applying for a position. *BOD Comment: T. Smith:* The intent was that we were giving people the benefit of the doubt. If something went wrong with an automatic payment once in a year, you would not be penalized for that. We will look at it and post something back to you. *BOD Comment: K. Brockman:* As far as Superior receiving checks or payments of any type, earlier this week Superior told me that the mail they receive from USPS is a week late. The processing time is not functioning well as far as getting the payments there in a timely manner. So Superior is trying to make a judgement call every time they receive a late payment to determine if it qualifies as a late payment or not. There are other factors that could come into play, which would allow them to determine not to assess a penalty for a late payment. I know when checks come in here, Jim and I get them out and date stamp them right away, so we know exactly when they were received. The checks need to go to Superior. We put them in a box and a gentleman from Superior comes and picks them up. It may be 3 to 4 days later that they are picked up and that's why they are date stamped. We are trying to be careful not to assess penalties for late payments when we know what the condition is.
- L.** Carol DeMeo, 8723 Vandalay Dr., I use an exterminator at my home, Bug Out, and they told me they would be interested in getting a contract for 3 Cherry Way. Whatever happened to that? *BOD Comment: K. Brockman:* We do have a contract with Bug Out, but it is only for the Clubhouse. It is not for the residents.

10. BOD COMMENTS:

- 11. ADJOURNMENT:** K. Brockman/J. Mercier: Adjourned the 3CW HOA BOD Meeting March 12, 2024, at 8:00 PM in the 3CW Community Center.