

Forest Glen Station Homeowners' Association
Executive Board Meeting
October 19, 2009

I. Call to Order. The Board was called to order by the President at 7:34 P.M. The meeting was held at Montgomery Hills Baptist Church, at the corner of Georgia Ave. and Forest Glen Rd. Present were Francis O'Donnell, President; Birgit Mitchell, Vice-President; Chuck Ehrlich, Treasurer; and Joe Hubbard, Member at Large. Others Present: Carmen Jenkins, Sadia Malin, Marcus Joseph, Ganesh Shrestha, R. Mendar, and Melanie Mullaney of CMI.

II. Approval of Minutes of Last Meeting. Because this meeting was added to the schedule of meetings, approval of the minutes from the meeting of October 5 was deferred until the next meeting on November 9.

III. Reason for Meeting. This additional meeting of the Board was held in order to give additional consideration to parking issues in the community. Scheduling of this meeting was contingent upon being able to arrange for the Association's attorney, Mr. Schild, to attend and discuss relevant state and county codes and the Association's Covenants and By-Laws with respect to parking and the Board's authority to regulate parking on the private streets of the community. Mr. Schild was available to attend on this date so the Board scheduled the meeting.

IV. Officer/Committee Reports

A. Treasurer's Report. It appears that there will not be the need to increase HOA dues for 2010. A Budget Committee meeting is planned for mid-November.

B. Parking and Safety Committee. No formal report.

C. Landscaping and Grounds Committee. No formal report.

D. Social Committee. No formal report.

V. Parking on Darcy Green Place. Ms. Mullaney of CMI commented on the previous inspection by the Fire Marshals during which the Marshals gave their opinion that curbside parking would not be permitted at the East end of Darcy Green Place (DGP) because of the narrowness of the street. She noted that the community is scheduled for a zoning inspection within a few weeks. The inspectors could comment on the permissibility of parking in those spaces. She also mentioned that a waiver of fire lane requirements might have been granted when the site plans for the community were filed with the county. In other words, a final ruling on the parking spaces at the end of DGP was still pending. She commented that she was optimistic that the County would not take away the parking spaces at the end of DGP.

VI. Remarks by Mr. Schild. Mr. Schild, the Association's legal counsel, spoke at length regarding the authority of the Board of Directors to regulate parking on common property. He also provided guidance about the issuance of meeting notices and voting requirements under State laws and the governing rules of the Association. He also responded to questions.

A. Parking. Mr. Schild based his comments on the provisions of the Covenants and By-Laws of the Association. He noted that there were some portions of these documents where the guidelines were clear and there were other portions where the interpretation was less clear. He cited specific portions of the documents with respect to common property and the meaning of the term "exclusive use" by the Association. He commented that it was within the Board's scope of authority to change the current parking policy and to assign certain common property to the exclusive use for some owners. He quoted, amongst others, Article 3(f), Section 3.1 (e) and (f) of the Declaration of Covenants, and Article 7, Section 7.4. Mr. Schild counseled that the community should be asked for input and that all decisions should follow the "good business judgment" rule, consider equity, provide the reasoning for the decision, and establish objective criteria for the assignment

of spaces in case the Board should decide to allocate common property parking spaces for the exclusive use of some owners. When the Board has the authority to make judgments, follows the guidelines articulated in the Covenants and By-Laws, and observes proper procedures in reaching its decisions, then courts have respected Board judgments. Mr. Ehrlich asked about legal precedents with respect to association Boards. Mr. Schild commented that when homeowner association disputes have reached the courts, the court decisions are often considered not binding precedents beyond the case being decided. When asked about what decisions needed to be endorsed by the Association as a whole (rather than by the Board acting on behalf of the Association), he said that he would need to study the Covenants and By-Laws in greater depth to give an opinion on that specific question. The Board voted to authorize Mr. Schild to proceed with that study and to render an opinion in writing, including the scope of the Board's authority to assign common property (parking spaces) for the exclusive use of certain residents (owners of units without a garage). There is no applicable county zoning rule that pertains to parking rules on private property in this case.

B. Safety. Mr. Ehrlich noted that the Board works on behalf of the best interests of the community. In particular, he noted safety as a critical issue. He mentioned that two specific safety factors related to parking were the ability of emergency vehicles to pass through our streets and the safety of residents when walking from their parking spaces to their homes, especially during inclement weather. Mr. Ehrlich had proposed at the previous meeting that the Board assign spaces on DGP to the homes that faced that street but did not have garages. With respect to ice on sidewalks, Mr. Schild noted that, regardless of the parking situation, if there were particular areas of the community in which ice was of concern, the company charged with snow and ice removal should be instructed to direct its earliest and repeated efforts to such areas. As far as the HOA's liability in case of an incident caused by someone, for example, slipping on their way from the Darcy Green Court parking lot, it does not make a difference if the injured had an assigned parking space in this area or not because the standard of care is the same. **According to Mr. Schild, it is permissible to use one's garage as storage space under the Covenants.**

C. Board and Committee Meetings. Mr. Schild then provided a brief overview of applicable laws regarding meeting notice and voting requirements. He noted that the By-Laws specify that meetings of the Board and its Committees must be open to members of the Association – a few exceptions are allowed in the By-Laws – and advance notice of such meetings should be provided to the community as a whole. He quoted Article 10 of the HOA's Bylaws, which stipulates that Committee meetings must be held in accordance to Section 3.9 and 6.1 of the Bylaws (Meeting of Members). This includes the 72 hour notice requirement. There has been a change in the county's "open meeting" rules, which do state that, for example, assessment discussions and discussions with legal counsel may now be conducted in a closed meeting. The Board agreed with this approach and discussed the various media that could be employed to advise Members of upcoming meetings. Available media are mailings from CMI, the list serve mail group, the FGS Web Site, and the bulletin board near the Tot Lot. In addition a newsletter could provide notice of upcoming meetings. Mr. Schild stated that list serve announcements are sufficient to provide notice, in his view, especially in conjunction with posting the dates on the bulletin board and use of the newsletter and website. Members who were interested in upcoming meetings could contact any Board member for information. The Board discussed and tentatively agreed to the dates of November 9 and December 14 for the next Board meetings, and for the Annual Meeting of the entire Association to be held on January 11, 2010.

VII. Other Business.

A. Curb Repairs. Ms. Mullaney reported that she should have several estimates for the cost of curb repairs in the near future.

B. Contracts. Ms. Mullaney reported that the only contract due for renewal is that for A&W, the landscaping and snow removal service provider. There will be no increase for the snow removal charges and the landscaping fee will only increase by 3%.

C. Lighting. Ms. Mullaney said that she will present to the Board information about available options for installing solar-powered floodlights in those portions of the community that would benefit from additional lighting.

D. Parking Passes. Ms. Mullaney had made some preliminary inquiries into purchasing new parking passes for use in the future. These passes would be used when the Board decides upon its final approach to re-issuing parking passes to authorize parking on the private streets and parking lots of the Association.

E. Henry's Towing Service: The Board inquired if the towing company was properly enforcing the parking policy. According to Ms. Mullaney, Henry's towing is aware of the parking policy and procedures for towing of incorrectly parked cars on HOA property.

F. Snow Removal: The Board asked CMI to instruct the snow removal provider to pay special attention to the Darcy Green Court area (snow removal in parking lot, placement of removed snow, and priority snow removal of walkways leading from the parking lot to address the potential safety issue of residents walking from the parking lot to their doors).

VIII. Next Meeting. The next meeting of the Board is scheduled for Monday, November 9, 2009, at 7:30 PM at the Montgomery Hills Baptist Church.

IX. Adjournment. The meeting adjourned at 9:33 PM.

Respectfully submitted,

Francis L. O'Donnell
President

Birgit Mitchell
Vice President