

M. Nugent

2002

Perimeter  
Fence

MINUTES OF SPECIAL MEETING  
OF  
BOARD OF TRUSTEES  
OF  
DEERFIELD VILLAGE COMMUNITY ASSOCIATION, INC.

This special meeting of the Board of Trustees of the Corporation was held on July 15, 2002, commencing at 7:00 p.m., at the Deerfield Village Community Center, 4045 Deerfield Village Drive, Houston, Texas 77084.

The meeting was attended by the following:

1. Warren Babor
2. Walt Clingo
3. Craig Coleman
4. Mandy Donovan
5. Don Driggs
6. Scott Schneider
7. Bob Shortle

Being duly serving Trustees of the Corporation.

Scott Schneider, Board President, called the meeting to order.

The specific purpose of this meeting was to discuss the Perimeter Fence Committee organization and to provide the necessary direction to this committee from the Board.

The first order of business was to discuss the organization of the Perimeter Fence Committee (PFC) as a committee that reports directly to the Board of Trustees. A motion was made to organize the Fence Committee, to be chaired by Gil Forcade, as a Special Committee reporting directly to the Board of Trustees. This motion was seconded. A discussion was held during which questions were raised about the advantage of having this committee report directly to the Board vs reporting to the Community Services Committee, as it has in the recent past. It was stated that the belief is that having the PFC report directly to the Board would improve communication between the PFC and the Board, and would also enable things to move more quickly (by removing the Community Services Committee as the "middleman"). It was also stated that the Community Services Committee had expressed interest in having the PFC report directly to the Board. Following this discussion, a vote was taken and the motion passed with 6 votes in favor and 1 vote against. The validity of the Board appointing a Special Committee was questioned and the ruling was found to be in Article 9.5 of the Articles of Incorporation.

The next order of business was to address budgetary issues for the PFC. A motion was made that the PFC draw budget from the Community Services Committee for such expenses as postage, mail, and the creation/delivery of information flyers to residents. This motion was seconded followed by a discussion. There were questions raised about why the PFC would draw budget from Community Services but report directly to the Board. Would this not create a burden on Community Services since all discussions would be held directly with the Board but then Community Services would have to approve budget requests from the PFC. Following the discussion, the motion was voted

on and failed to pass with 3 votes in favor and 4 votes against. The Board directed the PFC to bring all budget requests directly to the Board for approval.

The next order of business was for the Board to identify a comprehensive list of issues that must be addressed, either by the PFC or the Board, prior to proceeding forward to an ultimate community vote on the fence construction project. This is the list of items and deliverables that the Board has identified, as well as the entity tasked with addressing each item:

1. Can the DVCA Board of Trustees expend funds for construction on private property, per the Articles of Incorporation and By-Laws? The deliverable on this item is a legal opinion from the DVCA Attorney. [Board]
2. Can the DVCA Board of Trustees legally approve the borrowing of money, per the Articles of Incorporation and By-Laws? The deliverable on this issue is a legal opinion from the DVCA Attorney. [Board]
3. If the loan term for this project is longer than 1 year, how does DVCA guarantee the repayment of the loan? Additionally, under this situation, what guarantee will a bank require from the DVCA? Board requests that Bank representatives present to the Board how they would legally loan money to the DVCA based on a review of the Articles of Incorporation and By-Laws. [PFC]
4. Board wants information about getting easements from existing perimeter homeowners to construct the fence (e.g., legal information, document templates, what happens if a perimeter homeowner refuses to provide an easement?). The deliverable on this item would be a document describing the process for obtaining easements and information regarding what would happen if a homeowner refused to consent to an easement. [PFC]
5. Are there any considerations for the mortgage company of a perimeter homeowner with respect to the granting of an easement, title searches, surveys, etc. The deliverable on this item is official information from a mortgage company (or multiple mortgage companies) regarding any easement-related issues. [PFC]
6. Considerations for removal and disposal of the existing perimeter fence. The deliverable on this item is the cost and any legal implications regarding the removal and disposal of the existing perimeter fence. [PFC]
- 7. A plat map presenting the proposed coverage for the new perimeter fence. The deliverable on this item is a valid plat map with the proposed coverage highlighted on the map with appropriate measurements. [PFC]*
8. A plan for this project that discusses how the PFC plans to organize the relevant information, disseminate information to the community, and obtain a vote of the residents. The deliverable on this item is a document that describes the tasks to be carried out along with a general timeline. [PFC]
9. Ongoing maintenance of the proposed perimeter fence (i.e., Life Cycle Costs). The deliverable on this item is a document that presents an estimate of the costs to maintain the proposed perimeter fence over its lifetime. This information should be presented for all fencing options that are to be considered. [PFC]

10. Insurance implications for the proposed perimeter fence. Is insurance included in contractor's costs? What about liability insurance for the fence? The deliverable on this item is an official document that presents any and all information regarding what it would take to insure the proposed perimeter fence, including estimated costs. This information should ideally be obtained from an insurance company. Financial Services Committee may need to contact the DVCA insurance agent for recommended coverage and costs. [PFC]
11. What happens if a homeowner refuses to pay any assessment associated with this project? The deliverable on this item is an official opinion from the Board. [Board]
12. Any water drainage issues surrounding the construction of the perimeter fence. The deliverable on this item is relevant information within the PFC proposal that addresses any drainage issues for the proposed perimeter fence project. [PFC]
13. Financial considerations and alternatives if the project is financed via an assessment increase – will the project be financed via a special assessment or raising the existing assessment? The deliverable on this is a document that presents the various alternatives to finance this project along with any Board or resident voting implications outlined. The Board will educate the PFC regarding the voting process for the various alternatives. [Board/PFC]
14. The Board would like to see various fencing alternatives (e.g., wood, brick, concrete) along with associated construction and lifecycle costs. The deliverable on this item would be a document that presents a minimum of 3 architectural options along with associated costs. [PFC]

It should be noted that the Board stipulated that any and all legal opinions will be presented to and rendered by our current DVCA legal counsel, Suzy Rice. Further, a motion was made that the PFC would bring any and all legal questions to the Board for resolution. This motion was seconded and passed by a unanimous vote.

The Board then opened the meeting to resident comments.

One resident asked if the Board had liability insurance coverage and stated that he hoped that the Board had deep pockets. The Board does have liability insurance and a Board member asked the resident how much coverage should we have. The resident commented that the Board would need a lot of coverage for the lawsuits that would occur if this project went forward.

One resident raised the issue of liability insurance for an accident that might occur regarding the fence. The issue was raised that the community would be sued if someone ran into the fence or was injured by the fence since the fence would now be owned by the community.

One resident raised an issue about how the project would account for ground creep. Specifically along Windsong Trail, he stated that no fence construction would reasonably account for ground creep, regardless of the type of construction.

One resident stated that he will be organizing the Don't Build the Fence Committee and asked the Board what information would need to be provided to the Board in order to kill

this issue right now. The Board commented that no such information would be accepted and that this issue will be taken to a community vote. The resident asked if he could place a flyer in the newsletter and the Board's opinion of this was that he could place this information in a newsletter insert at the time that the PFC presents its information to the community.

A resident suggested that the PFC do a survey immediately to determine if the community was in favor of the project. She suggested that the PFC present the cost range and get a survey response from all residents as soon as possible so no more time or money was wasted.

A resident suggested that the PFC go to each perimeter homeowner to determine their interest in the project and their willingness to provide an easement.

A suggestion was made to include all of the above in the next newsletter, with the issues prioritized.

There being no further business to come before the regular meeting, a Motion was made and seconded that the Board adjourn. Motion was passed by unanimous vote.

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Don Driggs - Vice President

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Mandy Donovan - Secretary