

July second special meeting of the Board

Sherry opened meeting with request for Board members to take on task of officers. Members stated that until situation of ponds being out of compliance with city code, members are unwilling to be officers of corporation and have greater personal liability exposure. All agreed they are not unwilling to take on tasks and to become officers when liability issue is resolved.

Report from meeting with attorney Guy Loftman. Loftman again advised to get in compliance with city code by fencing, draining or lowering level of ponds to 33". We need to do this as soon as possible and he advised us to immediately turn off the sump pump and stop adding water to the system which is already over 36 inches. He continues to advise that fencing is the best option, but if we choose not to fence to get all ponds below 36 inches with normal rainfall consideration, so to a depth of about 33 inches. Without fence there would be liability in a flood event. Being out of compliance with city code puts Winslow Farm in a position of negligence per se.

Attorney was asked about liability and deep pockets. Deep pockets are reserve funds of Winslow Farm, Moss Creek and Moss Creek Village based on covenants. Board members/officers not getting WF in compliance might incur personal liability.

Insurance company will not increase our coverage beyond what we have now. Agent is shopping for another company to offer us increased liability coverage.

Attorney explained that city's choice not to enforce the code does not mitigate WF negligence if accident occurs.

Questions about measurements. Bynum can provide measurement/survey service or accept measurements we already have from Ensmann.

Discussion moved to title search. Most recent title search and last year's title search indicates that WF owns only ponds 4, 5, 6, 7. Thus in talking with Bynum about reducing pond levels we are talking about ponds 4,5,6,7.

Discussion about when measurement should take place for proof of compliance, before or after lowering pond depth. Certified engineer measurement will cost more.

Meeting next week with Fred Schultz, liability attorney.

Discussion about whether we as a homeowner group want to have anything on our property that might cause death or injury to a person. Agreed that is a decision for the homeowners to make, not the board. City might need to be involved. Anita stated as a nation we once thought retention ponds were a good idea, now as a nation, we are moving away from that to rain gardens and other solutions. Agreed that no one on the Board wants to put any life at risk.

Board discussed possibility and agreed to continue looking at options to eliminate at least some of the ponds and convert some drainage to underground. Calling a meeting of all homeowners to answer this question was discussed. 6 foot razor wire fence around ponds was discussed.

Board will meet with 2 more attorneys and get bids from Bynum Fanyo to reduce water levels in ponds 6 & 7 and then 4 & 5, with prices for measurements. Easy solution to lower level in 6 is to put pipe in beside weir. Easy solution to lower level in 7 is reverse of solution suggested by Walt Mills last year to increase water level in pond 7. That is to cut down concrete outflow structure.

Discussion of engineer getting permissions from city if we wanted to eliminate any/all ponds.

Discussion of some homeowners buying home because of existence of ponds. Sherry suggested that owners near ponds would prefer to own the ponds. Nancy stated that the ponds were supposed to be deeded to Moss Creek and Moss Creek Village based on original documents on file in county recorders office. Sarah suggested meeting with Moss Creek and Moss Creek Village.

Sherry re-stated her personal position that is opposed to fencing, in favor of lowering level of ponds. Anita's position is until city enforces code she is opposed to doing anything. Sarah stated that 3 Board members are in favor of getting in compliance immediately. Sherry stated this Board is not judge & jury over lives of people living here; further stated options need to be presented to those homeowners directly on ponds.

Bids discussed. Bynum Fanyo, Hanna X-cavating, other contractors. Ramifications of proposed changes were discussed.

Discussion about turning ponds over to city. Anita stated we should tell the city, these are not amenities, we do not have the expertise to manage these, take them back, charge homeowners an extra tax, dissolve association. Nancy suggested deeding ponds to city. Carol expressed concern over a lawsuit if city refused.

After significant discussion over when a meeting could happen, a motion was made.

Motion made by Sherry, second by Nancy, hammered out to email letter calling for meeting to include WF Board, MC Board, MCV Board to happen before Thursday to discuss 5 options to get in compliance with city code.

- 1 WF lower pond depth to 34 inches**
- 2. MC & MCV take control of ponds**
- 3. Ask city to take ponds**
- 4. Convert ponds to underground drainage**
- 5. Fence ponds as per city code**

Motion passed 5-0

Discussion of title search. MoCoTiCo did title search and found WF owns ponds number 4,5,6,7, but still no proof of 1, 2, and 3. Discussion of survey of ponds 1,2,3. Stake survey would need a reverse legal description. Question to ask liability attorney.

Discussion of Documents. Board needs to have a meeting and discuss documents and those things such as board of 8 and proportional fee structure, common property versus community property. Homeowners should be asked for input. Sherry wants to have a work session on documents. Question about attachments never received from committee. Committees work is a starting point. Meetings with attorneys will help define issues.

Discussion of fence construction along west property line below dam. Construction of fence demonstrates reasonable care to keep children away from pond # 7. Clearing and rip rap are needed before fence construction.

Times for document meetings were discussed. Lunch meeting date was established. No agreement was reached on what documents to discuss first.

Azalea Lane/Bayberry meeting was discussed.