

**Fox Run Condominium Owners Association, Inc.**  
**Board of Directors Meeting Minutes**  
**October 20th, 2007 @ 2:00 P.M.**

Board President Steve Wallin called the meeting to order at 2.05 pm. The meeting location was at Equity Real Estate Office on Wellborn Road, College Station, , Texas.

- **Quorum** certified with directors Martin Reza, Fred Klein, Tom Scullion and Steve Wallin. Jesse Vasquez was absent. Debbie and Kaye from Equity Real Estate, our management company, attended the meeting.
- **Acknowledgement of notice of meeting.** FRCOA Board of Directors Reza, Klein, Scullion, and Wallin verbally acknowledged receiving notice of the meeting.
- **Minutes.** The September 15th, 2007, Board meeting minutes were approved.
- **Reports** of officers:  
To be covered under actions items. This is the second meeting of the new Fox Run Board, having been elected at the Annual Fox Run Owners Meeting held on September 1, 2007.
- **Meetings** – the next FRCOA Board meeting will be held on Saturday, November 17th, 2007, at 10:00 AM at the offices of Equity Real Estate in College Station.
- **Action items-**
  - Kristie Richmond FR unit 501, Ismael Martinez, FR unit 1105 attended most of the meeting.
  - **Action Item: “Pooper Stations”** Fred Klein provided the board with two estimates for pet waste disposal stations. The costs were \$325 (Belson Outdoors) against \$475 (JJB Solutions). The board reviewed the specifications for both systems and agreed to proceed with the purchase of three of the cheaper stations. These will be located near building 11, between buildings 1 and 7 and near building 13. The board agreed to ask Kirby Tracy of Grassroots Landscaping to install the stations
  - Debbie handed each of the board members a set of three designs drawing from Gessner Engineering. These related to building 5 only, they are a topographic survey showing elevations around the exterior of the building. One is set of design drawings with a proposed subsurface drainage system similar to that installed around buildings 14 and 15. The board needs time to review these recommendations. No action was recommended at this time, the board will review these in the future.
  - **Action Item: “Foundation Issues”:** Hubbard Kennedy, attorney at law, attended the meeting to discuss his work to date for the FRCOA, and his proposal to legally represent the FRCOA and each individual owner in an action against the developers of Fox Run. He provided the board with two letters outlining his proposed agreement with the FRCOA. He is asking for a retainer of \$65,000, which is his estimate of total funds required to take this case to court. This includes \$50,000 to cover Mr. Kennedy’s costs and \$15,000 for technical experts and court costs. Based on the recommendations of the last FRCOA board meeting \$25,000 has already being placed in escrow. Mr. Kennedy asked for an additional \$40,000 to be added. Mr. Kennedy would bill against this account as the discovery process and potential case progresses. To date nothing has been billed against this account. He proposes to contact each individual owner to see if they want to be represented by him, and to determine if they have any documentation regarding problems, if any, with their unit. In one of Mr. Kennedy’s letters he specifies that the maximum and individual owners would be liable for would be \$1,000. A lengthy discussion was held regarding the details of the legal action, including the need to have every individual owner sign the agreement, or if having one owner from each building would be sufficient. There was also discussion about whether only those owners who signed the original agreements with Hi-Lo and Bill Hopper could be included in the

lawsuits. Also discussed was the issue of homeowners who are living in a building which does not have foundation problems. It was proposed that these owners may be dropped from the lawsuit. Mr Kennedy indicated that substantial research would be required before proceeding with the lawsuit. The first phase of the discovery would be to identify who are the parties to be included in the lawsuit. It is known that Mr Hopper had several partners.

- Mr. Kennedy asked if the FRCOA could appoint a single contact person to coordinate the signing of agreements with individual owners and to initially develop a chronological narrative of the development of the foundation problem. Mr. Tom Scullion agreed to act as the point of contact. Debbie from Reality Real Estate promised to forward Mr. Scullion her e-mails from owners documenting problems. However Debbie's list is not complete as the early problems were forwarded to Mr. Hopper and many of these were addressed. Debbie did not save this early correspondence.
- After Mr. Kennedy left substantial additional discussion ensued about the possible legal action. Up to now the majority of the concerns were about buildings 5, 14, 15 and 16. However, Mr. Ismael reported wall cracks, jammed doors were also occurring in Building 11. President Wallin reported door problems with his unit in building 12. More discussion focused on what types of problems could potentially be caused by foundation movements. Not all the cracking issues are foundation related. The following problems were thought to be potentially foundation related, misaligned/jamming doors, diagonal cracks in exterior or interior walls, cracks in floor tiles, jammed windows.
- After much discussion the board decided to accept Mr. Kennedy's proposal. It was decided to pursue litigation against the developers of Fox Run for current and possible future foundation deficiencies and to use Hubbard Kennedy, subject to a successful negotiation of a contract by Steve, and to take an additional \$40,000 out of our reserve fund for this purpose. The board members signed the initial agreement and President Wallin will forward the document to Vice President Jesse Vasquez for his review.
- The board then discussed needs to communicate these actions to the unit owners. Steve Wallin proposed to develop a letter to be sent to all owners. The letter will present details of the potential legal action and will ask owners to identify any potential problems with their unit. There was also discussion of a second letter to the owners in 14 and 15 to determine if the drainage system installed by Mr. Hopper has been effective in stabilizing their problems.
- The board has been unsuccessful at locating detailed site and construction plans for Fox Run. Mr. Hopper has not responded to earlier requests. The board is attempting to identify the design and construction information about the post tension slabs used at Fox Run. The City of College Station was approached and they responded that they do not keep plans. However from the city's web site they are responsible for inspecting slab construction. There was also some discussion about the effectiveness of the French drain system installed around most of the Fox Run units.
- Action Item: "Satellite Dish in unit 1105". Mr. Martinez from building 1105 attended the meeting concerning the satellite dish. His earlier communication stated that the FCC has already issued a ruling permitting the installation of such dishes overruling HOA rules. This was reviewed by the board. Mr. Martinez stated that the wires to the satellite dish use a ribbon cable which is fed under a window so no holes have been drilled in the building. For the time being the board decided to take no further action with regard to the dish.
- Action Item: "Bank Signature cards" No action this period. Debbie will take action this month and report back to the board next month. It was proposed that only one signature

would be required and that President Wallin, Vice President Vasquez or Secretary Scullion would have signature approval. Now that we have a new Board, we need to revise our bank signature cards. Steve will ask Debby to have this ready for our next meeting.

- Action Item “2008 budget” Updated budget information was provided by Equity. The board will review these.
- Action Item “Capital Improvements – Long Term budgeting Projects” No major long term improvements were discussed at this meeting
- Action Item “Parking Lot re-stripping Projects” Two proposals were reviewed by the board, these being from Service maintenance of the Brazos Valley and N-Line. The board decided to approve the lower bid proposal from Service Maintenance subject to making some minor adjustments to the bid. Fred Klein provided Debby with a parking map and a list of revisions needed to the bid. Debby will contact the company to get a revised bid. It was proposed that this work will be completed during the Christmas break.
- Other business. Discussion was held concerning the need to get legal advice on numerous aspects of the Fox Run by-laws. President Steve Wallin developed a list of 10 questions regarding our Associations documents (by-laws, declarations, etc) he needs legal advice to resolve. These include the proper procedures for imposing fines for by-law violations and others. During the meeting additional issues were raised such as does FRCOA, being a non-profit organization, have tax exempt status. President Wallin made a motion to seek legal advice from the Carrington Coleman Law firm in Dallas. This motion was approved. A quote from the company was presented to the FRCOA. It was hoped that the questions from the meeting could be resolved by one visit to this firm
- It was agreed the next Newsletter will go out sometime towards the end of November. Please send Steve any items you have for the Newsletter. Certainly the Newsletter needs to include information on the new Board, and the finalized 2008 Budget.
- It was decided to post an exit only sign on the exit. It was proposed to include this in the re-stripping contract.
- Concerns was raised about the slab movement in the parking areas, the joint sealing compound was not acting as a seal. This is letting water under the driveways. The board will review this problem and determine if replacement is required.
- The board reviewed the new web site under development by Equity Real estate. The site is almost complete. The site will permit Fox Run owners to communicate repair request, problems to Equity. It was also be used to post newsletters. Equity asked the FRCOA for \$100 per month to maintain and operate the site. No action was taken at this time.

Meeting adjourned by the chair at 5.08 P.M.

---

Tom Scullion  
Secretary