

## Tuscany Estates Association

### Meeting Minutes

#### Special Meeting – August 18,2020

The special meeting of Unit Owners was called to order at 6:30 pm. In attendance were the following Board Members: Lisa Manion, Pete Guido, Elise Navarro, JoEllen Meek and Tim Holeczy. Also in attendance were Aimee Hennenmuth, community manager of CMP, and Lisa Burkhart, the attorney for the Association of the law firm Brandt, Milnes & Rea, P.C. All Unit Owners present were asked to sign in with Ms. Hennenmuth. According to the sign-in sheet, there were (40) shared-wall units and (7) single family homeowners in attendance for a total of (47) units represented at the meeting.

Board Member Pete Guido started the meeting by welcoming everyone. Lisa Manion stated that the purpose of this meeting was to discuss the two petitions presented to the Board and to try to reach a resolution. Everyone was asked to keep to the topic and other items will not be discussed at this meeting. It was also explained that there was a recent reserve study that has been completed, and the results of this study should be available the first week of September. The reserve study was due to be updated (recommended to have it updated every 5 years). This is a major tool that is used in budgeting and ensuring the reserve account is properly funded.

Attorney Lisa Burkhart started the meeting by introducing herself, stated that she has represented Tuscany Estates for several years and that she represents the Association as a whole. Ms. Burkhart stated that she is not here to represent the Board but rather to work with everyone in the best interest of the entire community. She went on to explain the goal of the meeting is to find out what the petitioners are looking for and to come to a resolution to avoid unnecessary legal fees for all involved. The first item of discussion was the petition involving the increase in the monthly dues and the confusion with the voting on the budget at the annual meeting in 2019. Ms. Burkhart inquired of those present as to what they seek to accomplish. She would rather have a collective remedy than have the unit owners argue amongst themselves in court. By attempting to reach a resolution, the objective of avoiding legal fees could also be obtained if everyone was willing to try and work together. She emphasized that the Association has many other ongoing issues that it faces and that the goal should be to collectively focus on these issues.

The floor was opened to questions or comments from the residents in attendance.

1. A townhome resident stated the fee has increased a lot since he has moved in and asked if there is a five/ten-year projection as to what the increases will be. Lisa Burkhart explained that this is the purpose for obtaining a reserve study as it will project where the Association should be currently and in the future. The Association has ongoing issues with the Developer. There are liens on the common property by Maronda and the Township. She said that the Association appeared to be underfunded from the inception of the community and the board is playing catch-up to fund the reserves. She explained that the only other option to fund the Association other than a dues increase would be a special assessment and that the board was trying to avoid such an assessment for the Owners. She emphasized that the unit owners make up the Association and the only income comes from the unit owners. She stated that this was discussed at the annual meeting. Lisa Manion stated that all the current projections are on the Association's website.

2. A patio home resident stated that this is simple problem. If the Association is still going to be responsible for the maintenance, then we need to have a good study to reflect what a reasonable replacement cost will be, and the dues must reflect what that is. He stated that he worked on the budget with the board and that we did use the reserve study when we determined the fees. If unit owners want the Association to maintain those items in the documents, then the unit owners need to fund that maintenance.
3. A patio home resident asked what exactly was the HOA paying for because the dues have been tripled. Lisa Burkhart gave examples of what the Association pays for including maintenance, insurance, property management, etc. Lisa Manion stated that there is a matrix that explains what is covered by the Association on its website.
4. A townhome resident asked a question of what items the monthly dues cover. Lisa Burkhart stated that it was for insurance, maintenance costs, property management firm and other expenses and is all defined in the yearly budget and the financials are posted on the website monthly. He asked how much money is going to reserve and expenses that go out. Aimee from CMP stated that the \$170.00 monthly fee went towards reserve fund, grass cutting, master insurance policy, etc. He asked of those present if everyone was good with the \$89.19 not fully going into the reserves and reducing this amount and not be concerned about the future and have the dues reduced to what they were last year.
5. A townhome resident stated that we are off track. The petition was about the vote last year and what to do about the increase. The resident said the by-laws state that the budget reverts to the previous year if that budget is voted down. He stated that we should get a budget committee together and take the advice from that committee. Lisa Burkhart responded that the budget was not voted down in accordance with the law and asked what it would take to resolve these issues. Lisa Burkhart asked if it were acceptable to hold off on any action, get a committee together and review the new reserve study before a decision was made as the new reserve study is expected to be completed in a few weeks and it is already August. This resident rejected that idea and said that a portion of the dues should be refunded to unit owners immediately. He feels the reserve study is highly inflated and the buildings should not all be priced the same. The suggestion was to give back \$38.00 x 8 months which would be \$304.00. Lisa Burkhart asked if he was good with the deficit in the reserves and he stated that then they would get a special assessment if needed.
6. A townhome resident suggested a cap set for a maximum amount for the increase of HOA dues at 10%. This would allow for increases a little at a time and not large increases as they have experienced. Ms. Burkhart emphasized that this could only be accomplished by an amendment to the declaration.

Lisa Manion did state that a representative from Reserve Advisors who did the Reserve Study is willing to come to the Association's budget meeting after the report is completed to answer any questions of the unit owners as to the reserve. It is going to cost the Association to have this representative, but it is an option to clarify the study and the numbers that are given.

7. Again, it was stated by a townhome resident that the by-laws state that if the budget is not passed, it reverts to the previous year budget and it will be \$132.00. This resident questioned Lisa Burkhart as to whether she felt the Association complied with the by-laws at last year's annual meeting. She responded that she doesn't feel that the by-laws have been violated and felt the Association was on solid legal ground if there were a challenge to the court. She again emphasized that a legal challenge will cost the Association more money in legal fees when that money could be spent resolving much bigger issues with the declarant and the builder. She said that the budget wasn't rejected within the timeframe of the law, but that a lot of unit owners were present and that the Board wants to hear from these unit owners. Ms. Burkhart asked for a survey of those present by a show of hands (which were not counted) of the residents in attendance as to who is looking for a refund of a portion of the 2020 dues even if it means the Association may be underfunded at some point in the future. A majority of those present stated that they would want a check/refund. There was discussion between Ms. Burkhart and the Board. The Board agreed to a refund to the unit owners and there was further discussion as to how best to accomplish a refund. There was discussion as to whether CMP would charge for the checks to be issued and Ms. Hennemuth replied that the only charge would be for postage. Ms. Burkhart stated that refunds would not be issued to homeowners that are delinquent but they would receive a credit.
8. A patio home resident stated that you cannot issue a check unless all of the Association's legal obligations are covered. The HOA needs to make sure all the legal obligations are covered and only then can refund checks be issued to the unit owners. Lisa Burkhart stated that was the determination that the Board made last year when the budget provided for an increase in the dues. However, the unit owners present at this meeting are rejecting that notion. Lisa Burkhart stated that there is a difference of opinion as to how the Association should be funded.
9. A patio home resident asked if it would make sense to put the funds/overage in an escrow account and then if the reserve fund is short there would be money to cover it. Lisa Burkhart stated the best thing would be to keep it in reserve, get the reserve study back and then determine if there would be a refund or not rather than moving money around. She also stated again that when the meeting opened tonight, she recommended to keep the money where it is and wait for reserve study and then make the determination. That was not what the majority present wanted as was evident by a show of hands that were raised. She stated that it seems the only way to resolve the one petition is to give a refund check and if a special assessment is needed, then it will be issued to the homeowners. She went on to say that a special assessment is not ideal, and the Association tried to avoid that process by simply increasing the dues. Lisa Burkhart emphasized again that unit owners are the HOA and if many unit owners do not want the increase, then a refund will be issued.
10. A townhome resident asked why we do not go after Quaker Engineering, because the fund was initially improperly funded by them. Lisa Burkhart stated that there are legal challenges involved and in fact the Board had been inquiring about doing so since she was initially retained to represent the Association. This has been discussed with Quaker Engineering and further discussions are expected to take place about this option.
11. A townhome resident asked the question why the single-family home owners have a vote on increasing shared-wall dues. Lisa Burkhart replied that the Association can only change this by an amendment to

the declaration. The amendment would require an affirmative “yes” vote by 67% of all homeowners and the cost for preparing and recording the amendment would be approximately \$600.00. By a survey of those present by a show of hands, a majority of those in attendance want the HOA to prepare a draft amendment and put it out for a community vote.

12. A single-family resident stated that the reserve study will probably come in high and nobody is going to believe the reserve study and will think that the numbers for replacement are not correct. Lisa Burkhart responded that there will likely always be a resident who questions the figures. Lisa Burkhart stated that you are never going to make everyone happy, so we must listen to a majority of the homeowners as to what direction the Association should go. By survey of those present, they want a refund and are willing take the risk of a special assessment being needed in the future because the Association is underfunded.
13. A townhome resident asked if the vote taken at last year’s meeting was legal as the Association only gave the homeowners two choices. Lisa Burkhart stated that the Board has a duty to properly fund the reserve account and are not required to have residents vote on the increase. Rather, once the budget is approved, the unit owners have 30 days to reject the budget per PA law. So technically, the petition as to the 2019 budget did not comply with this timeframe. With that being said, if the residents want to fight it, your legal bills are going to increase significantly. In her legal opinion, the board is on solid legal ground the way the vote was conducted, and she would defend it in court. Again, the board does not want to spend the HOA money to engage in litigation with the Owners and that the HOA has bigger “fish to fry” with Quaker Engineering and Maronda.
14. Lisa Burkhart reiterated that we are going to send out an amendment to separate the voting between single-family and shared wall residents. Again, this requires a vote of 67% of the unit owners to pass. Lisa Burkhart asked by a show of hands, who wants a refund check of anything more than the 2019 fees. It was a majority and the board agreed that the monies be refunded to put this matter to rest. The board asked if this resolution of the conflict requires a 2/3 vote of the unit owners and Lisa Burkhart stated that unit owner approval is not necessary because the residents already petitioned the board for a meeting, so this is considered a resolution between the board and the residents that are present at the special meeting called for this purpose. The resolution does not involve an amendment of the governing documents or adoption of a new budget and as such doesn’t require a formal unit owner vote.
15. A patio home resident asked if there can just be a credit issued. Lisa Burkhart asked home owners present if they would be good with just issuing a credit instead and to save fees from CMP to process a check. It was put to show of hands again as to whether a credit is what the majority would like, so CMP will issue the credit to all shared wall residents account, again only those members who are not delinquent. After much discussion on the manner in which to handle the refund, it was decided, again by a show of hands of those present, that a credit would be issued to each unit owner’s account equal to the difference between the 2019 and 2020 dues for the months January to August. Aimee Hennemuth confirmed that CMP will adjust the direct debits for the lesser amount starting in September.

16. A townhome resident asked why the HOA is insuring the pool and clubhouse. The board and Aimee from CMP stated that this was insured by the developer. Aimee from CMP stated that to her knowledge it was NOT insured by the HOA. The resident confirmed that he was sure it was being insured by the HOA because he had a copy of the insurance certificate from Nationwide. Lisa Burkhart stated that the HOA did not have the deed for the pool or clubhouse. Aimee Hennemuth agreed to look into the insurance policy to confirm whether the HOA is insuring the pool and clubhouse. The resident also asked about the HOA maintaining the property by cutting the grass and treating the property. The board replied that the HOA will be billing Quaker Engineering for this maintenance and this will be a part of the ongoing discussions with Quaker Engineering and Maronda.

Lisa Manion asked for volunteers for the budget committee and asked that they stop up after the meeting to please give Pete Guido their name and they will be added to the contact list.

A motion to adjourn was made by Lisa Burkhart and seconded by Pete Guido. All in attendance voted to adjourn the meeting.