



## Minutes of Membership Meeting held March 11, 2015

6:00 p.m. at Cross of Christ Lutheran Church

Meeting called to order at 6:10 by Don Plumb

Board Members present: Don Plumb, Sherri Cullom, Craig Paden, Deb Mann, and Attorney Ted Fitzgerald. Mark Langbehn was absent.

### APPROVAL OF MINUTES

Craig made a motion for the minutes of the last membership meeting held in November 6, 2014, to be accepted as written, Sherri seconded the motion, vote taken: all in favor, none opposed-motion carried.

### ELECTION RESULTS

Don and Sherri both submitted letters of nomination to the board, and we received no others, therefore no election was needed. Craig made a motion to retain Don Plumb as President, Mark Langbehn as Vice President, Sherri Cullom as Assistant Vice President, Craig Paden to Treasurer and Deb Mann as Secretary. Don seconded the motion, vote taken; all in favor, none opposed-motion carried.

### 363 SALE UPDATE

Don explained the events at the January hearing at the Bankruptcy Court regarding the 363 Sale progress. Three HOA Board members, Mark Langbehn, Craig Paden and Don Plumb were in attendance at this hearing. The Judge found no merit in the lawsuit to show just cause and he dismissed that part of the case.

The judge did, however, request that, since all parties to the bankruptcy lawsuit were present along with their council, that they sit and talk about what action they could take to proceed with the 363 Sale. He expressed his disappointment with the fact the sale had not taken place yet. He said he was going to leave the court room for a while and he wanted them to set a date for the sale or when he came back, he would. The Judge allowed the HOA Board members present to remain with the parties to the suit but all other observers had to leave. After he left the room Susan Trent, attorney for the Trustee, was the first to speak, then Nathan Vis, Attorney for the FWCD, spoke. They sort of exchanged un-pleasantries. Then the Bond Counsel spoke up and said I don't understand why aren't we all on the same side of the table? She then described what they brought to the table over two years ago and what was included in the Court's Stipulation.



She explained that what they presented at that time was basically three things:

1. This would be a “No-Recourse” Bond-meaning at the end of the bond term it is over, whether or not it is paid off, makes no difference, it is done. If the money is not collected, they lose it.
2. The second item was a “No Penalty Clause” for paying the Bond off early, if that were the case due to say, possibly refinancing the bond.
3. Last item was the issue of “Waterfall” or where the cash flow would be distributed when lots are sold. If Allstate were to sell off lots, Allstate would only keep the actual cost of the sale, legal fees, realtor’s fees, etc. the remaining profit would be put into debt service for the Conservancy District.

Susan Trent went on to explain that the lawsuit brought by the Interveners in the Porter County Court system to remove the “Receiver” has taken an enormous amount of time and effort to fight. She explained that the Bond issue gives Allstate the right to request a Court appointed receiver. Since Allstate wanted a receiver appointed they got one and it was her job to defend that right. She said if all parties want to move forward quickly then the lawsuit to get rid of the receiver had to be dropped. The two FWCD Board members present conferred with their attorney and agreed to drop the lawsuit. This is a very positive move we can finally begin to move on. Susan Trent stated that she can now begin to prepare the final documents on some lingering issues of clearing all questions of ownership related to FPI’s financing. It was stated in possibly 3-4 months a 363 sale may be scheduled. Even in the event that the new developer sells the lots at “Fire Sale” prices to move them, they must still adhere to our current Covenants and Restrictions. The developer may in fact retain the “Declarant Status” and not pay dues on each lot until new owners purchase and then they would be responsible for the current year’s dues. This fact was then verified by Ted Fitzgerald . The time element of the sale also involves searching for developers, it will go nationwide. Don explained that this is not a negative thing, as when the new developer is established, the north end of the subdivision still needs to be completed. Issues still remain unfinished up there as well as finishing the roads on that end. They will have to make these necessary efforts and repairs in order to move the neighborhood. A resident asked the question of “Who is suing who”- Don explained that there is no existing lawsuit now, but due to the distrust of the former developer by the conservancy District, they questioned the existence of the “Receiver” and tried to stop it. Allstate has the right to the “Receiver” as is written in the bond issue to begin with. A member of the Conservancy District explained their position and that it was agreed by all to drop the lawsuit. He also mentioned in going forward that the Conservancy District is putting together a model of this “waterfall” showing how monies will be returned to the district.



### LEGAL RECAP

Ted Fitzgerald gave a brief description of the effort of a developer to re-zone the 16 acres across the street from our entrance from R-2 (single family) to R-4 (higher density, like 4-plex units). The Porter County Plan Commission denied the request and then it proceeded to the County Commissioners where it was turned down once again. He also commented on the importance of support of Homeowners and Board Members at these meetings, and more people in the audience in opposition to these issues the better, and having the petition signed by all of us was another plus. He then went on to explain that they have now re-applied to change the zoning from R-2 to R-3 (duplex units.) We will be circulating another Petition for signatures, as well as asking for attendance at the Porter County Planning Commissioners meeting which will take place on Wednesday, **March 25, 2014** at 5:30 p.m. to have this request for zoning change denied as well. The traffic, and sewer issues do not support a high density development.

Ted gave an update on HOA dues collection matter, how and when liens are filed and progress achieved.

### BUDGET

Craig explained our financial reports with the use of an overhead projector. The reports reviewed were the summary, income detail, expense detail, budget YTD and the financial overview, which is a graph showing the checkbook balance/income/spending plots for the years 2008 thru 2015 YTD. He then cited the following current financial values.

Total income received YTD as of 3/11/15	\$23,923.42
Total expenses YTD as of 3/11/15	\$20,218.87
2015 Income less Expenses	\$3,704.55
Checkbook balance 3/11/15	\$105,803.65
Road fund balance (included in checkbook balance)	\$23,264.05
Refundable construction deposits (included in checkbook balance)	\$3,000.00
Total outstanding HOA invoice balance as of 3/11/15	\$41,646.30

Craig also brought up the issue of speed violations in the development again, and the board will move forward with the speed bumps, as community agrees as well. Don mentioned adding a few more speed limit signs throughout the neighborhood.

### OPEN FORUM



Mike Berta inquired of the board the receipt of the recent study he had performed by Reichelt Plumbing regarding his sewer line from his home out to the main sewer line. We did receive it and Don asked him to provide the flash drive for observation himself of meter signs and stationing.

Dave Cullom asked that we address one of the most prominent issues that people seem to be concerned with in Falling Waters, the water pressure, or lack thereof. Omar Estrada wonders if we could get some kind of certification by our Water Company to dispel some of the negative publicity. Ted Fitzgerald mentioned all of this information would be available on line if anyone is interested in purchasing a lot or home, that there are very stringent rules that must be followed as far as water and sewer issues are concerned.

Don mentioned that we have discussed trying to meet with a group of Realtors to bring them up to date on the Status of Falling Waters and to improve the image with positive publicity. There has been enough bad publicity posted and we need to have some kind of function to invite Realtors and Newspaper reporters to promote our neighborhood.

Omar asked if there was any plans by the board for a 4<sup>th</sup> of July Party, and/or collections for fireworks? We informed him that we do not, as a board have any plans for any event at this time.

Deb made a motion to adjourn, Sherri seconded, vote taken; all in favor-meeting adjourned at 7:20 p.m.

Respectfully Submitted,

FWHOHA board of Directors