

The Foothills Clusters

Homeowners Association Newsletter

Volume 1, Number 2 Fall 2014

Message From the President

September has come and gone and we are just a month away from our annual meeting. It has been decided to hold the meeting in our regular spot, Foothills High School, House #1, Seminar Room. After wards we will have a get together at Dena Peterson's home on Gibbon Mountain.

Speaking of Dena, she and her crew of very hard working residents have been trying to collect as many names as possible to run for the Board of Directors. The CC&Rs prescribe nine positions and we only have 6 members at this point. Bob Newcomb picked up when Sam Shivers found it necessary to resign and has done a great job. Brian Bickel has been stellar with newsletter and doing 'drive bys' when a property is sold. These are necessary to make sure we don't have any HOA violations. Mike Stirrat has been magnificent with the books. He has worked diligently to clarify the history of our finances as well as keeping up with the current figures. Robert Gonzales has been wonderful in keeping all of us calm. As I said before, Dena has been working with some great neighbors to get a slate of candidates for the November meeting. She is also organizing our get together after the meeting so we can know each other in a casual setting.

Please understand, we all volunteered to be on the Board knowing it was a temporary appointment. I can only speak for myself, but I only committed to this through November. I personally don't know how I feel about continuing after that. I think the majority of the rest of the Board feels about the same. We need more participation from our residents. Up until this year I was one of those residents who didn't have time to come, didn't like getting into a difficult situation and, frankly, as long as nobody harmed me or my family, I figured the Board was doing the best possible and I left them alone. Then, I, like many of you, got hit with the attorney letter. And here I am. Dena has referred to 'many hands make quick work' cliché.

I hope many of you consider running for the Board. I also hope you consider volunteering for committees and please, please come to as many meetings as possible.

Thanks,
Aletha

Let's Talk About Dogs

For those of you who are on the NextDoor blog, you know that there has been a significant thread about a particular dog in the Clusters.

A good number of people walk, run, bicycle and walk dogs throughout the neighborhood. It has been my experience that encounters with local wildlife are much less traumatic than encounters with domestic animals.

When outside, dogs should be on a leash at all times. I realize that you and your pet maybe perfectly comfortable being off leash. However, others, including mine are not as well behaved. Too, Pima County does have a leash law.

We all live in a neighborhood that we want, and have the right, to enjoy, unencumbered and unafraid. Please do your part by keeping your animals under control at all times.

A New Policy

At the September Board of Director's meeting, the board approved a new policy on delinquency for the payment of annual assessments. It is reproduced below and has been placed on the NextDoor blog. This is meant to be informative, not threatening or punitive. Also, the board is determined to be proactive in preventing adverse actions by following up with property owners who have not paid in a timely fashion. Please help us help you by paying your assessment on time. Thank you!

FOOTHILLS CLUSTERS HOMEOWNERS ASSOCIATION DELINQUENCY POLICY

The following is the Foothills Clusters Homeowners Association Delinquency Policy. This policy has been written within the guidelines of the Declaration of Covenants, Conditions, and Restrictions applicable to the Foothills Clusters Homeowners Association and the laws of the State of Arizona. This policy will be enforced to ensure the financial security of the Association, while simultaneously ensuring the value, desirability and integrity of the Foothills Clusters community. This delinquency policy will be enforced effective October 1,

2014 and will apply to assessments billed for the year 2015 and thereafter.

I. ANNUAL BILLING

Each homeowner will be billed annually for the homeowners' assessments. Payments must be postmarked by the due date indicated on the assessment invoice. Payments postmarked after the due date will be subject to penalties as outlined below. A charge of \$25.00 (or the maximum allowed by Arizona State law) will be issued to any account whose check is refused by the payer bank.

II. LATE PAYMENTS

A reminder notice will be sent to the owner if the payment is not received thirty (30) days from the due date. If payment of the assessment is not received within thirty (30) days from the initial due date, said assessment will incur a late charge as determined by the Board of Directors and will bear interest from the due date at the rate of six percent (6%) per annum until paid in full.

If full payment of the assessment, late fee and accrued interest has not been made within sixty (60) days after the due date, the owner will be mailed a 15-day demand letter as required by statute.

The notice will set out the balance due as of the date of the notice and will state that the owner has fifteen (15) days from the mailing of the notice to pay the outstanding balance without the attorney's fees and court costs. If full payment is not received within fifteen (15) days of the mailing of that letter, then the account will be turned over to the association's attorney for collection.

III. COSTS OF LEGAL ACTION

If it is necessary to initiate legal action, including but not limited to liens, foreclosure proceedings, and law suits, in order to collect overdue assessments, the homeowner will be responsible for all overdue assessments, late fees, accrued interest, costs of collection, reasonable attorney's fees and court costs as provided by the Declaration of Covenants, Conditions and Restrictions for the Foothills Clusters Homeowners Association and the Arizona Planned Community Act.

[The Board of Directors for the Foothills Clusters Homeowners Association will determine the appropriate action to be taken in any situation not expressly covered by this delinquency policy.]

Committee Reports & Information

Landscape & Roads Committee

In order to have an informed discussion regarding the repair/replacement of the roads, a worst case scenario proposal has been solicited from a local paving contractor. This will be presented at the Annual Meeting in November and a representative will be there to answer questions.

An issue that must be dealt with prior to any roadwork is the encroachment of vegetation into the roadway. According to the plat map of the development the right-of-way for the roads is thirty feet and the pavement width is twenty-four feet. This provides a three foot easement on either side of the road for utilities. This is HOA property, part of the limited use common area. Please be aware that anything in the right-of-way is placed at risk.

For those property owners bordering Evans Mountain Loop, the right-of-way is sixty feet wide and is the property of Pima County. Again, anything in the right-of-way is placed at risk.

As you are walking in the neighborhood, you may notice small brass discs, approximately two inches across. These are survey markers placed in a 12x12x18 inch block of concrete and mark the center of the right-of-way and the center point of most of the cul-de-sacs. It is important to note that the road may not be located in the center of the right-of-way, particularly Evans Mountain Loop.

If you have vegetation on your property that encroaches on the roadway, please trim it next month when the dumpsters are here. Thank you.

CC&R Enforcement

In an effort to provide information, a synopsis of the Covenants, Conditions & Restrictions (CC&R's) is included below.

PLEASE READ CAREFULLY

We live in what is known as a planned unit development. While each residence within the Foothills Clusters is separately owned and deeded, all property within the development is bound by the Covenants, Conditions & Restrictions (CC&Rs). These CC&RS, or "Use Restrictions" are incorporated into each deed by reference, and are legally binding. Every owner of record is a member of the Foothills Clusters Homeowners Association (FCHA), membership is not optional and annual assessments are not optional.

CC&R's have been established to control certain uses of the properties that could have an impact on the desirability of the Clusters as a place to live and the value of our property.

Oversight of the CC&R's is the responsibility the Board of Directors of the FHCHOA.

Our CC&Rs require the Board, or a committee appointed by the Board and reporting to it, to exercise control over any architectural changes made to the original structures and properties in the Clusters. All structural changes or additions to your home or property must be approved *in writing* by the Architectural Control Committee *before* you begin any construction. This is specifically required by Article V of the CC&R's, and includes walls, sheds, patios, pools, roof replacements and extensions, fireplaces, room additions, garage and carport conversions, driveway expansions and any other *exterior* changes. The Committee is to be concerned with the nature, shape, color, materials, general appearance, impact on the neighborhood and long-term effects.

Even though the County may issue a building permit, the project may not necessarily comply with your deed restrictions. If you proceed with construction or installation prior to obtaining the Architectural Control Committee's written approval, the Board may require modification or removal in accordance with the CC&R's (Articles V and VI, Section 1).

No building or structure intended for or adapted to business purposes shall be erected, placed, permitted or maintained on any lot or part thereof (Article VII, Section 1).

Exterior antennas may not extend more than five (5) feet above the highest point of the roof. (Article VII, Section 3)

Garbage cans, clotheslines, storage sheds, pool equipment, water softener tanks, woodpiles, etc. shall be concealed from view by an approved structure (Article VII, Section 4).

No advertising signs are allowed on any lot or structure (Article VII, Section 5).

Our lots may not be used for the accumulation of rubbish of any kind, nor for storage, keeping or use of anything that would cause any unclean or untidy appearance, or emit any objectionable odor, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding properties (Article VII, Section 6).

Animals and pets may be kept in reasonable numbers. Neighbors' rights must be respected when walking dogs, and dog owners are responsible for any cleanup or landscape damage, etc. The Board is empowered to order the removal of any bird, fowl or animal that may be objectionable to any residents of adjacent properties (Article VII, Section 7). Also, Pima County has a leash law that carries a fine and impoundment consequences for non-compliance.

No boat, camping and utility trailers, recreational vehicles, motor homes or habitable motor vehicles, commercial vehicles, construction vehicles or equipment, all-terrain vehicles, unlicensed or unused vehicles, etc. may be kept on or stored on any part of the property except within an area which is "completely enclosed" and approved in writing (Article VII, Section 8).

Prior written approval is necessary for the destruction or removal of any native growth (Article VII, Section 9).

No white, near-white or reflective roofs will be placed on any structure. No heating, cooling or other mechanical equipment will be placed on any roof (Article VII, Section 10).

Patio walls that face the street must be constructed with the same material used in the construction of the residence. Any substitute materials must be approved in writing (Article VII, Section 11).

No basketball hoops may be visible from the streets or roadways (Article VII, Section 12).

The Board recognizes that adherence to these restrictions could be considered by some to be an invasion of privacy, but in a high-density neighborhood such as ours, exceptions to the general standards are very obvious, and have a significant negative impact. Enforcement of deed restrictions such as these by duly elected Boards of Directors has a lengthy and well-founded legal precedent.

It is incumbent on every homeowner and renter to be familiar with the restrictions and requirements. If you have any questions regarding the architectural guidelines or use restrictions, please contact any member of your Board of Directors or write the Board at our address. If you have misplaced your copy of the CC&Rs, the Board will gladly supply you with a complete set at no charge. You may also find a copy on our website, www.foothillsclusters.com.

Thank you for your understanding and cooperation in these matters.

Hospitality/Community Events Committee

After the annual meeting, there will be a pot-luck at the home of Dena Petersen, 3800 E Gibbon. For those who knew Dee Ralles, yes, Dee's Party Palace is back in action :) 4:30-6:30, after the annual meeting, Please BYOB and a small dish to pass, based on 1st letter of your last name.

A-J salad-ish thing

K-S appetizer-ish thing

T-Z dessert.

Please come meet your neighbors and have some fun.

Dena

Nominating Committee

Candidates for the nine FHCHOA board positions are:

- Brian Bickel
- Aletha Kalish
- Scott Kuzma
- Dave Larabee
- Bob Newcomb
- Dena Petersen
- Dale Prescott

- Dave Simmons
- Scott Simpson

Watch for your ballot in the mail. Please fill it out and return it quickly.

Future Meeting Dates & Times

November 2, 2014 1:30 to 3:30 pm
Annual Membership Meeting
CFHS House #1 Seminar Room

November 3, 2014 at 6:30 pm
Board Meeting
CFHS House #1 Seminar Room*

*Location is tentative

Contact Information

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Vacant

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The mailing address for the Association is:

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Email Addresses Please!

Thanks to everyone who has consented to receive the newsletter by email only!

Election Time

In addition to your ballot for board members for the FHCHOA, Election Day is fast approaching. If you are on the Permanent Early Voting List (PEVL) and have returned your ballot, thank you! If you have not returned your ballot yet please mail it prior to October 28. If you are not on the PEVL please exercise your right to vote at the polls on Election Day, Tuesday,

November 4. The polling place for the Clusters is at The Embassy Suites Hotel.

News & Notes

If you have items of interest, send them to the HOA PO Box or email them to the board email address to my attention and I will include what I can based on space. Thanks!

Brian Bickel
Newsletter Editor

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