

**The Foothills Clusters Homeowner Association**  
**MINUTES - BOARD OF DIRECTOR MEETING**

Date/time: Monday, December 7, 2020 at 6:30 p.m.

Location: Zoom Video Conference

1. CALL TO ORDER/ROLL CALL

- a. Call to Order was at 6:30 PM
- b. Housekeeping – Zoom attendees were asked to mute their microphones.

Board Member	Term Expiration	Present	Absent	Proxy
Aletha Kalish	2023	X		
Irene Barg	2023	X		
Michael Katz	2023	X		
Brian Bickel	2021	X		
Austin Wesnitzer	2021	X		
Douglas Hughes	2021	X		
Frank Karnauskas	2022	X		
Ron Steffens	2022	X		
Linda Jaworski	2022	X		

- c. A Quorum was present. - Next board meeting Monday, January 4, 2021, 6:30 PM via Zoom Video Conference. For details go to the Clusters website at [www.foothillsclusters.com](http://www.foothillsclusters.com).

2. APPROVAL OF PREVIOUS MONTH’S MINUTES – Motion to accept the Minutes from the November, 2020 Board Meeting was made, seconded and passed, pending amendments to include ELECTION OF OFFICERS.

3. PRESIDENT’S COMMENTS – Frank Karnauskas welcomed everyone.

4. COMMITTEE REPORTS

1. Architectural Control Committee with CC&R Enforcement

There were 9 Architectural Change Applications and 4 CC&R actions with 2 Notice of Violation (NOV) letters sent. (See attached ACC-December-Report-2020.pdf).

2. Landscape & Roads Committee

- i. Roads report – No report.
- ii. Landscape report – RFQ for will go out in January 2021. Yard debris pickup will be included.

3. Business Process Committee

The Board discussed Member’s feedback from the Annual Meeting of Members (see attached FC-AM-20110-Call-to-Floor.pdf). There were two alternate suggestions for funding the roads. A motion to create a subcommittee to review pros/cons of all options was made seconded and passed.

4. Communications Committee – No report.
5. Finance Committee
  - i. Treasurer’s Report – Review of Balance Sheet and Budget.
6. Welcoming Committee – Welcome packet delivered to 1 new homeowner.
7. OLD BUSINESS
  - i. Legal Representation – The President, signed a contract with Jason Smith, to be effective on Jan 1., 2021.
8. NEW BUSINESS
  - i. 2021 Annual Assessment – A motion to increase the annual assessment from \$274/yr to \$288/yr was made, seconded and passed.
9. MASTER ASSOCIATION - Next meeting is Tuesday, January 12, 2021 4:30-5:30 P.M. via Zoom.
10. ADJOURN – Meeting was adjourned at 7:30 p.m.

**The Board of Directors can adjourn to Executive Session based on the following:**

- |                                     |  |
|-------------------------------------|--|
| <b>A.R.S. Section 33-1804(A)(1)</b> | <b>Legal advice from an attorney for the board or Association</b>                  |
| <b>A.R.S. Section 33-1804(A)(2)</b> | <b>Pending or contemplated litigation</b>  |
| <b>A.R.S. Section 33-1804(A)(3)</b> | <b>Personal, health, or financial information of Member or employee</b>            |
| <b>A.R.S. Section 33-1804(A)(4)</b> | <b>Job performance or personal matters of Association or contractor’s employee</b> |
| <b>A.R.S. Section 33-1804(A)(5)</b> | <b>Discussion of member’s appeal of violation or Penalty</b>                       |

**ATTACHMENTS:**

**Foothills Clusters HOA  
Architectural Control Committee Report  
December 7, 2020**

**Architectural Change Applications**

3505 E Guthrie Mountain Place-Application for Garage and Shop, approved with conditions.

6716 N Quartzite Canyon Place-Inspection of pavers and wall complete, application closed.

3560 E Marshall Gulch Place-Application for conversion of garage to family room, approved. Project inspected and application closed.

6436 E Burro Creek Place-Application for exterior painting, approved. Work in progress

3783 E Nugget Canyon-Application for dumpster placement and construction of a climbing wall, approved.

6760 E Cascade Springs-Application for plant removal and irrigation install, approved.

3818 E Marble Peak Place-Grading work complete, some clean-up to be done with anticipated completion in 2 weeks.

3757 E Marshall Gulch Place-Solar Project with landscape improvements in progress.

3809 E Marble Peak-Application for 336sf addition, approved. Permit obtained.

**CC&R Actions**

3535 E Marshall Gulch Place-Complaint received for overgrown and dying vegetation, debris and dilapidated fencing. NOV issued. Owner quick to respond and amenable to clean-up and repairs. Completion pending.

3589 E Gibbon Mountain Place-NOV issued for storage trailer parked in the front yard and egregious removal of native vegetation without prior ACC notification. Owner responsive. Completion pending.

3590 E Gibbon Mountain Place-Complaint received regarding travel trailer parked in front yard. NOV issued. Owner quick to respond. Infraction resolved.

3773 E Marble Peak Place-Complaint received regarding overgrown and untended front yard, courtesy letter sent. Further action TBD.

**The Foothills Clusters Homeowners Association**  
**CALL TO THE FLOOR - ANNUAL MEETING OF MEMBERS**  
Date/time: November 1, 2020 at 2:00 PM  
Location: Zoom Video Conference

CALL TO THE FLOOR – Received many member comments on the proposed changes to the Articles of Incorporation and the request to increase the annual assessment. A summary of these comments follows.

1. Legomarsino – raise assessment isn't for 1 yr, initial use is for roads only.
2. Millissa Anderson – one option, use Google poll to make it easier to obtain votes.  
Brian: it would make it harder to reconcile votes.
3. Donn Stoltzfus – 79% support for 199 folks is good. Suggested another way to fund a capital improvement for the roads (see attached November 1, 2020 email, Subject: Special Assessment for Roads).
4. Mary Brown – suggested that Brian create a video to educate folks.
5. Peggy Hartmann & Jeff – Can we get a list of folks who did not respond? Brian: Special meeting will be one issue so we can solicit those who did not vote.
6. Michael Katz – Address members who didn't vote and ask why? Aletha: individuals can promote the assessment.
7. Vicki – A video from Brian explaining the project would help.
8. Brian Bickel – We can send letters to folks who didn't participate.
9. John Bronner – Made some recommendations – via email (see attached November 2, 2020 email, Subject: Some Recommendations).

ATTACHMENTS:

From: **Donn Stoltzfus** board.dstoltzfus@foothillsclusters.com  
Subject: Special Assessment for Roads  
Date: November 1, 2020 at 4:20 PM  
To: board@foothillsclusters.com



I had planned to bring this up tomorrow night, but here is the alternative I alluded to in the annual meeting.

The Association has \$700,000 or so available to devote to the project. A portion of this could be applied to the project cost and a lesser portion held in reserve to make the first couple of years of loan payments (meaning a larger loan). As Brian pointed out, in 6 or 7 years the assessment could reach \$400 based on allowable annual increases. The challenge is that we cannot wait that long, and asphalt and labor prices may well increase in the intervening time.

Section IV, Article IV of the CC&Rs allow for a one-year special assessment for capital improvements in the Common Area. I believe that this would cover road reconstruction, and other HOAs have used special assessments for road repair, although an attorney should confirm this is proper interpretation of the CC&Rs. Notably, this Article only requires "the assent of two-thirds (2/3) of the votes of each class by members who are voting in person or proxy at a meeting duly called for this purpose". Again, legal confirmation should be sought, but this appears to have no quorum requirement. The 78% support we had today out of 199 voting Owners would have been enough to pass a special assessment

Therefore, I ask the Board to commission a financial analysis of what \$\$\$ level of one-time assessment would be enough to finance the project in combination with a down payment and the gradually increasing annual assessment. In other words, the one-year assessment acts as an advance on the income that the future years increased assessment will provide. I suspect this may be well under \$1000, might gain 2/3 support, and is an alternative to holding a special meeting this spring to again raise the question and hope to get 80-90% participation in order to meet the 2/3 number required to advance. It does, however, create greater financial hardship on some in 2021, if for example the annual assessment is \$298 and the special assessment is \$500. Payment plans might be an option also.

Thank you.

Donn

From: **John Bronner** john.bronner@comcast.net  
Subject: Some Recommendations  
Date: November 2, 2020 at 8:41 AM  
To: Brian Bickel board.treasurer@foothillsclusters.com  
Cc: Irene Barg HOA Secretary board.sec@foothillsclusters.com



Brian,

I did not vote on Proposed By-Law changes, Change 2. I left it blank. First, I did not realize there was a CC&R and an Articles of Incorporation and a By-Laws. It seems like the CC&R is the overarching general directive and the Articles of Incorporation is supposed to be the detail document that tells how to implement the CC&R. Why do we have a By-Laws document also. That is for another discussion, anyway, for not being able to find the wording, I didn't vote on that item.

Now that I have found the wording, I think you need to be upfront with the members. I agree to the change and I will sign a document of agreement, but people will think you are trying to pull the wool over their eyes if you do not say plainly, this also reduces the requirement to borrow money from 75% to 66%. I am fine with that, but you should have stated that.

As long as the By-Laws exist (and I do not know why they exist), I recommend the following change to the By-Laws instead of the wording proposed in the ballot:  
"Borrow money for any reasonable purpose as specified in Article IV (d) of the Articles of Incorporation". In this way, you have not reduced the list of Powers and Duties of the Board of Directors.

In the Proposed Changes to the Articles of Incorporation, Change 2:  
I have re-studied this again and still do not understand. You start out by stating "The second amendment" I have searched for an amendment list and a second amendment to the articles of incorporation and the CC&R and the By-Laws. I take your description to mean that article IV (d) of the Articles of Incorporation are redundant with some "second amendment". Where is it?

If instead the wording that starts out with "The second amendment" instead is simply trying to refer to "Change 2" on the ballot page, it probably should have stated that. If I focus just on the wording in the change description "addresses the difference between the requirement to increase the annual assessment by more than 5% and the requirement to borrow money. This amendment effectively makes both requirements the same. There is no apparent need to borrow money other than for major street repair and no reason (to) raise the assessment more than 5% other than to service that dept.

Here is why I disagree:

1. You could need to raise the assessment simply to pay for increases in operating costs without the need to borrow money. Inflation could simply cause the cost of contracting the landscapers to periodically maintain the common area to exceed income. In other words you foresee output exceeding input.
2. You alluded to periodic road maintenance in the future, again, without needing to actually borrow money, but after assessing the periodic cost of road maintenance, you predict output will exceed income.
3. The HOA members have obviously tried very hard not to raise the annual assessment for many years to the point they are in extremis mode now. Why would you not believe that

the members will not do the same for the next long stretch of time such that at the end of that stretch, with the HOA having gritted their teeth for many years trying to stay within budget, then finally they have to throw up their hands and tell the members, hey, we have gone so long without an increase, we have to increase more than 5% in order to keep up with costs.

4. There are two kinds of assessment, a one-time "Special" assessment and an annual fee recurring assessment. Change 2 very definitely needs to stipulate whether it applies to the annual (recurring) assessment or any future requests for a one-time single year "Special" assessment or both.
5. In your change wording, you talk to different classes of members, when I read the CC&R, it seems like on January 1, 1981 one of the classes was to automatically go away. Is there still multiple classes?

Bottom line, the need to increase assessments is not necessarily linked with borrowing which is one of the basic premises of Change 2. I am not sure of your purpose of change 2, you are after something and I suspect I am on-board with what you are after, but I think there must be a different wording that can still achieve your needs. When I try to analyze why you are doing this, I look at the CC&R it says 51% is required for both special assessments and annual assessments, not too stringent, so that can't be the reason. When I look at the articles of incorporation IV (d) Borrowing, it says 66%, so maybe that is your thrust to combine the borrowing requirement with the assessment requirement to automatically reduce the voting requirement for borrowing.. If so, then why don't you just say so, simply state reduce the articles of incorporation voting requirement from 66% to 51% to be consistent with the requirements for increasing assessments or something to that effect. Anyway, I am just guessing at your purpose, but if this was the purpose that could be a possible wording. I do not agree with combining borrowing with assessment increase, they are very different.

Finally, Brian, throughout I have used the word "you". I do not mean that to refer to you personally. You is meant to refer to the HOA administration whom were involved in creating the proposed changes and developing the ballot. I am in fact on-board with redoing the roads and voted that way.

Thanks for your time and attention. If you have a clear concise reason for the articles of incorporation change 2, I would be very interested, perhaps I could come up with alternate wording for a new vote.

John