

To: Burleson Magnolia Farms HOA

March 23, 2016

From: Bobbi Brown, Board President

Re: Update on Items assigned per June 28 HOA Meeting, 2016 Financials

Burleson Magnolia Farm HOA Members:

On behalf of the Board, I want to apologize in the timing of getting this response out to the HOA. The topics assigned to the Board appeared to be simple, but they required research and the reliance of that research to be delivered to the Board. The accumulation of the data did not come about in its entirety until the fall. Additionally, the Board needed to meet to evaluate and digest the data, which was done over Thanksgiving.

### ***Items from the June 2015 HOA Meeting***

#### ***Fire Protection***

One of the charges to the Board concerned fire protection.

Research was performed with Bethesda Water Supply regarding the water lines and adding more hydrants. Rita Swager stated that our lines are 4 inch lines and to add more hydrants would require 6 inch lines or better. The line would have to be re-done from Curtis Road and down Sherry Lane to wherever the new hydrant would be. The cost could be as high as \$45 per foot. What that could mean would be around \$32000 to place a hydrant in the range of the Richardson or Jackson's and to place one at the end of the road near the end of the cul de sac would be \$90000 plus.

- From a pure fire protection standpoint, more hydrants reduce total loss from fire
- Cost is prohibitive

An alternative was to create a Neighborhood Fire Brigade to aid in a fire. The equipment has a cost in the area of \$3500 and would need a place to have the cabinet for equipment. Member Rosario has volunteered his home for the place for the cabinet due to the proximity of the hydrant.

- Lower cost is a plus for the neighborhood
- Would require a commitment of volunteers to train and operate equipment.

The Board would like feedback from the HOA on this information and how they would like to proceed.

#### ***Liability to the HOA for Culvert Maintenance & Repair***

This topic came up as a result of the Member Lummus' erosion of soil through the culvert and into the drainage easement between the Member Young's and Member Bean's. This topic has required some serious investigation. While the Deed Restrictions are clear regarding the professional excavation and requirement of sod in culverts, **questions from the Members in June wanted to know if the HOA had any duty to help repair/maintain the culvert where the drain goes under the road.**

Water liability regarding erosion is governed under 3 separate Texas codes – Texas Property Code, Texas Business Organizations Code for Non Profits, and the Texas Water Code. Research of the Codes indicated the HOA had no liability. The only possible exception to that was where The Water Code references liability if a waterway has been modified in a manner to increase or decrease flow. Our road is the waterway here and the maintenance of the road could be a condition that could increase or decrease flow. There was also consultation with the Don Shelton of Bush Rudnicki, Shelton PLLC who confirmed the research.

To be thorough on this, the Board brought in Jerry Springer and DFW Paving, LLC for opinions on the road. Mr. Springer is the current County Commissioner for Precinct 3 and performs road maintenance. Mr. Springer would not certify the road worthy of being included into the County system. The road would need to be, in essence, perfect for the County to include it. While our road is not perfect, it is superior to what the County system supports in the Boards opinion. Mr. Springer suggested items for repair, but felt the condition of the road was in satisfactory condition regarding its ability to perform for the neighborhood.

**Additional information for the Members:** A discussion has come up in the past to turn over the HOA road to the County. Even if the road were certifiable for the County, the Board would recommend against such an action for what the HOA would get in return. Mr. Springer went over the following areas that would present an issue for the HOA to ever be in the JCRMS system:

- Front Gate – not allowed. This would be a privacy and road use concern to give up for Members
- Concrete portion of Sherry Lane – County Roads do not accommodate concrete in any fashion
- Chip Seal – If the HOA ever did qualify, all we would get is “chip seal”, not what we have. Walk out to Curtis Road if you want a hands on view of chip seal.
- Culverts don’t meet County standards on width. Additionally, if the County maintained, they scrape “as needed” to empty culverts and do not provide landscaping. If you want an idea of what this means, Curtis Road has been recently scraped and is available for review of this process.

The second opinion was provided by Jess Cole of DFW Paving, LLC. DFW Paving provided the seal on the road the Board had completed in 2015. Mr. Cole’s review of the road came in about the same as Mr. Springer’s: we have an imperfect road that will continue to need maintenance and repair as it ages. However, he also feels the road is well built and will continue to function in the manner needed for the neighborhood provided we continue to have maintenance and repair done to the road. To ensure the road continues to meet the needs of the HOA, DFW Paving, LLC will perform an annual inspection and provide a report of any repairs that may be needed and the Board will fund accordingly. In addition, we also had this company prepare some estimates for replacement at various stages of repair. That will also be reviewed on any annual basis.

Both Mr. Springer and Mr. Cole also brought forth a similar comment concerning the existing overgrown areas on the culverts. Both believe the current culverts need to have grass eliminated on the edge which will provide a better water flow for the road. **This is an area for each Member and is not an HOA responsibility. However, the Board has a duty to communicate the impact of the current situation and each Member’s liability should they not do their part. This was brought up by Chuck Duello in the June 2015 Meeting and this communication is the first in a series from the current Board.**

**Conclusion on liability** – Based upon review of the existing codes per the State of Texas, confirmation of the data in the codes by Don Shelton of Bush Rudnicki, Shelton PLLC and the opinions of Johnson County Commissioner Jerry Springer and private sector contractor Jess Cole of DFW Paving, LLC on the existing road, The HOA has met its duty on the road to ensure it is not currently contributing to changes in the natural flow of water. As such, the HOA has no liability to the Lummus' to aid in the repair and maintenance of their culvert and easement to the drain under the road. They are to be in compliance with CCR's regarding keeping grass in the culvert. However, since 2015 was one of the wettest years on record, the Board has recommended the Lummus' invest in a more permanent solution in their culvert.

### ***New Business for 2016***

#### ***2015 Financial Statement***

Per the Deed Restrictions 403. (f), financial report is due within 90 days after the end of the year. Please find the attached financial statement per Board Treasurer Cynthia Jackson.

#### ***Member Dues***

Those will be billed out in April. Thanks in advance for being prompt.

Thank you for your patience in waiting on the Board on these issues. The Board wants all the Members to know we are working to make this HOA the best place to live in Burleson while maintaining standards that help protect your investment.