



Approved Minutes
Malvern Club, Inc.
905 Malvern Drive
Madison, VA 22727
<http://malvernofmadison.org/>

Board of Directors Meeting, December 8, 2022, Activity Center, called to order at 7:00 p.m.

Board Members Present: Fred Bourque, Chris Dickens, Donna Dyer, David Kalish, Stephen Langone, Pat Rowe, Diana Wright

Members Present: Milton Cason, Kemper Deane, Mark Hicks, Ed Johnson, Gary Matthews, Ron Montgomery, Mark Peregoy, Travis Rosser, Carolyn Wahl

Decisions & Actions

The minutes of the October 13, 2022, Board meeting and the November 10, 2022, Board meeting were approved unanimously.

President's Remarks

Fred reviewed the status of the November and December tasks in the Board Calendar. He noted that three Board seats are expiring in April: Fred's, Pat's, and David's. Fred will not be running again, as he has served three consecutive terms. The nominating committee was established for the April 29th election. Stephen, David, Fred, and Pat will be canvassing members between now and March 2023 to find people willing to run for those seats. He said the Clubhouse has been reserved for the April 29th Annual Membership Meeting and the July 4th Picnic.

Open Forum

Past Due Dues. Kemper expressed concern about the number of delinquent dues. He said if a homeowner doesn't pay their dues they should be taken to court and have liens put on their property. He said Boards in the past had taken owners to court to collect dues. He said there were many lots with outstanding dues balances in 2022. Stephen stated that there were only five lots in arrears and only four of those are behind on their 2022 dues. He said that two of the five had balances that are over 1 year old; those already have liens on the properties. Stephen said he is working with all members with an outstanding balance to get their balances paid. Fred advised that the Board is executing the collection process outlined in the Finance Policy, which is accessible on the malvernofmadison.org website.

Mowing of Lots. Kemper said he was concerned with some lots not being mowed and wanted to see what could be done in reference to cutting their lawns. Fred said the Board had revised the Lot Maintenance Policy in January 2022 to bring it in line with Virginia law, which prohibits an HOA board from imposing a restriction on a homeowner unless the restriction is expressly described in a covenant. He said there is nothing in the covenants that requires members to keep their lawns mowed. He said the policy encourages members to keep all grass-covered or open lots mowed to reduce wildfire risk but, other than that, each lot owner may maintain and enjoy their property as they see fit. He said some members, including the two who were mentioned, desire to have a wild place on their lot to encourage wildlife. He said his wife maintains a portion of their property like that for that purpose.

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Junk Cars. Mark Hicks said that several lots have junk cars sitting on their properties, which affects the property values of the surrounding homes. Members in attendance asked the Board to take action to have the junk cars removed. Fred said the Board does have the authority to have junk cars towed at the owner's expense and that Boards had done that in the past and would do it again. He reported that he had inspected the properties in question and that none of them has junk cars in sight. He said he had not gone onto the properties but noted that all of the vehicles on those properties that are visible from the road are licensed and operable, as required by the covenants.

Garbage, Rubbish & Debris. Mark Hicks also said there are lots that have debris visible on the lawn. Fred reported that he had inspected the property in question and that it had children's toys, lawn and landscaping equipment, and gardening tools on the area in front of the house. He said none of that violates the covenant pertaining to garbage, rubbish, and debris and that it does not violate the Lot Maintenance Policy.

Firearms. Several members said they were concerned about someone shooting and hunting in Malvern. Fred said we do have a covenant that prohibits hunting and discharging a firearm in Malvern. He reported that he had received several complaints this month about someone shooting a gun in the Carriage Lane area. He said he investigated the incident and determined who the homeowner was. He said it was someone taking target practice in their back yard. He said he advised them of the covenant. Kemper said he thought there was a Virginia ordinance that states you can't shoot within 300 feet of a residence. Fred said he found the ordinance, No. 52, which is for 200 feet, but, according to the Madison Sherriff's Office, Madison County has not adopted that ordinance. Gary advised, if you hear gun shots in Malvern, to call Gary Bostic, the Game Warden, at 540-948-5161, or call 911 and ask for the game warden. He said the game warden would come take care of it.

Enforcement of Covenants. Fred said that in the past Malvern Boards had enforced regulations that were not expressly contained in the covenants. He said there had been several Virginia Supreme Court cases that ruled that HOAs had over-stepped their authority. He said the Property Owners Association (POA) Act of 2010 was enacted to prevent HOAs from doing that. Under this law, if a prohibition or condition is not expressly stated in the covenant, the HOA cannot do anything about it. Fred said the POA Act makes clear that every property owner has free use of their property unless the use is expressly restricted in the covenants. He said our attorney advised the Board back in 2017 that some of our covenants would have to be tightened before they could be enforced. Fred said we can suspend a member's privileges temporarily and we can charge a fee for a late dues payment because those penalties are in our covenants. We can take a member to court to collect money owed to us. Fred said that the Board does not have the authority to impose fines on members who violate a covenant. Mark Hicks said to submit a proposal for fines and put it into the covenants. Fred suggested that we could amend the covenants to include fines for violations. He said the way to approach this is for members to propose rules that they want to add to the covenants. He advised that, to pass a motion to amend the covenants, it would require the agreement of the owners of two-thirds of the Malvern lots, or 156 aye votes. He suggested that the members develop a list of rules they would like to see enacted and bring it to a membership meeting for the members' consideration. He said the next membership meeting is on April 29th at the Clubhouse.

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Committee Reports

Treasurer. Stephen said he has collected the information needed for the 2022 taxes. He provided the following account balances as of December 8, 2022:

Operating Funds	\$ 20,427.22
Savings	\$100,754.46
<u>Reserve Funds</u>	<u>\$214,566.35</u>
Total Checking/Savings	\$335,748.03

Stephen reported that there were currently four members who are currently behind on their 2022 dues. He said the total outstanding 2022 dues balance, including late fees, is \$2,125. He said the total outstanding balance for four members for all years, including dues and late fees, is \$4,377.62. He said he is working with these members to get their balances paid. He said there are currently two liens in place and that liens will be placed on all properties that have outstanding unpaid balances at the end of the year.

Social Events. Diana said the next scheduled event is the Christmas Holiday gathering at the Clubhouse on Saturday, December 10th. James Tamelcoff will be performing during this event.

Lake. David said the lake is at 5 inches on the measuring post; the normal range is 3 to 5 inches. He said the spillway is flowing nicely. He said the siphon test was performed successfully. He said he inspected the plugged dam drainpipe and there are no leaks.

Grounds. David reported that the winter landscape cleanup is complete. He provided an overview of the plans for 2023. He said, aside from some necessary tree trimming of branches hanging over the roads, the main improvement will be at the Mail Shed. He said this will include spring cleaning, repainting, staining, and installing a new roof to match the roof on the newspaper boxes. He thanked Rob Owens for donating the shingles for the Mail Shed, which are the same rubber shingles he donated and installed on the newspaper boxes. Dave said Rob has almost enough shingles to do the entire Mail Shed roof. He hopes to have enough by spring. Dave said volunteers would be very helpful for this spring project, as the budget is very tight for 2023.

Roads. Chris did not have any news to report other than he is waiting for snow! Fred asked Mark Peregoy about the drainage situation at the end of Chestnut Rail. This is the area that has caused the flooding on that road. Mark said he has contracted with David Hoffman to put gravel ditches on either side of his driveway to slow down the flow of mud and water. Chris stated the only way to permanently fix the drainage issue is to take down the tree that is on the easement and put a ditch in along Chestnut Rail to drain the water down to the culvert. Chris said he will get an estimate to take down the tree, pull up the roots, and install the drainage ditch. Fred advised that we couldn't do that this year.

Architecture. Fred presented an application from Sean and Amy Hunt of 261 Powderhorn Way to put a 10-x-20 shed next to their driveway. He said the Architecture Committee recommends approval, and he moved to approve the application as submitted. The Board unanimously approved the application without change.

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Old Business

Christmas Decorations at Front Entrance. David said he had an electrician install an outlet at the Mail Shed so we can hang lights there. He said he placed three wreaths for the entrance area that have battery-operated twinkling lights that will shine at night.

Clubhouse Reservation Coordinator. Fred stated that he will continue to serve as Clubhouse Reservations Coordinator for now. He reminded everyone that the Board will have new members in May and that the new Board will elect its officers for next year. He said committee assignments and other appointments will be made then.

New Business

None.

The meeting was adjourned at 8:40 p.m.

Respectfully submitted:

Donna Dyer
Secretary