

HERITAGE GROVE of Los Gatos HOMEOWNERS ASSOCIATION
BOARD of DIRECTORS MEETING
Tuesday, June 16, 2020, 7 pm
held via Zoom from 104 Ayala Ct., Heritage Grove, Los Gatos

BOARD MEMBERS PRESENT

Dennis Reker	President
Nathan Barton	VP & CFO
Dana Marcus	Secretary

OTHERS PRESENT

James Merced	Grayson Community Management
Jocell Prieto	Grayson Community Management
Mario Gonzalez	132 Regent Drive
Karen Vogel Hayes	110 Regent Drive
Robert Martines	118 Regent Drive
Nicole Napiltonia	136 Regent Drive
Christina Aitchison	102 Regent Drive
Juliet Vadvilavich	100 Ayala Court
Gary Berg	114 Regent Drive
Mike Yaghmai	121 Regent Drive
Kevin & Paulette Dillon	131 Regent Drive
Charles Davis	129 Regent Drive
Tom Priest	134 Regent Drive
Kim Larson	104 Regent Drive
Cindy & Greg Smith	133 Regent Drive
Heddi Shariat	123 Regent Drive
Matthew & Joanne Lewis	125 Regent Drive
Mark & Meghan Devlin	135 Regent Drive

ITEMS I & II – Quorum, Notice of Meeting, Call to Order

Noting that a quorum was present, the meeting was called to order at 7:07 P.M. by the president.

Notice of this Meeting and Agenda was emailed on June 9th and posted 4 days prior as required.

The Board thanks everyone for attending remotely and hopes everyone stays healthy and avoids the COVID-19 virus. Thank you for helping your neighbors and the community.

ITEM III – Approval of Meeting Minutes

The Board of Directors reviewed the draft meeting minutes of the March 24, 2020 Meeting.

Motion: Ms. Marcus moved to approve the March 24, 2020 Board of Directors meeting minutes. The motion was seconded by Dennis Reker and approved by unanimous consent without objection.

ITEM IV – Introductions

Mr. Reker welcomed and introduced James Merced, Account Manager from Grayson Community Management and Karen Hayes, our newest Landscape Committee member.

ITEM V – Financial Update

V.P. & CFO Nathan Barton provided a summary of the Association’s financial performance as of 5/31/2020. We have five months of the year behind us and our budget is in good shape. We have \$59,179 in total assets (Operating + Reserve accounts). The Reserve balance is \$37,325.

Savings this year have been in landscaping and change of HOA management companies, as well as some savings in water usage. YTD homeowner's assessment totals \$33K. Expenses are just above \$28K.

Upcoming additional expenses for repairs to the fire lane and installation of the Heintz signage were not in the 2020 budget. Cost to restore the signage is not yet known, as this work will be bid out. The landscaping committee continues to review priorities, such as removing dead trees, grinding stumps, planting new trees, and fixing irrigation issues. We remain optimistic that we will end the year in a good financial position.

The reserve account is just above \$37K, with monthly contributions of \$1,305/month. The goal is to increase that to \$44K, the recommended 70% from the 2019 Reserve Study. .

Preliminary budget modeling for 2021, given current budget trends and the state of our reserve account, provides confidence we will be able to keep homeowner's monthly assessments at or perhaps even slightly below the current rate of \$150/month per household.

Pursuant to the "Board Review of Monthly Financial Reports & Transactions" policy, Mr. Barton made a motion to Ratify that the board has reviewed the monthly Association Financial Reports received from Grayson Community Management and Compass for the previous three months.

Motion: *Mr. Barton made the motion to confirm that the Board of Directors has reviewed the monthly Financial Information of the Association provided by Grayson Community Management and Compass Management, for the months of March, April, and May. The motion was seconded by Mr. Reker and was approved by unanimous consent without objection.*

ITEM VI – Landscape Committee Report

The June Newsletter attempted to provide full detail to the homeowners about the removal of the olive trees on Blossom Hill due to safety and ordinance issues.

Redwood mulch is being used initially as it is the safest mulch from a fire hazard and water retention standpoint during the summer months, enabling some planting where the only water is from the two tree drip lines currently. It will be blended and covered with mulch similar to what exists in other areas, after the season, and irrigation and landscape planning will continue.

Work put out for multiple bids, was completed at lowest cost, trimming the bottom 6 feet on the 2 large redwoods and the 2 large pine trees per fire defense recommendations and to remove vermin habitats.

We thank Sherri Tomlin for arranging for Village Harvest to professionally collect 180 lbs. of apricots donated to two agencies that provide emergency food to low-income individuals & families. We will need "please do not pick the fruit" signage for next season, to identify the trees as private property, along the public walkway.

Wire tree cages in the orchard were gathered and stored along with existing cages in the Heintz area. They will need to be removed, lacking an appropriate storage area.

The Landscape Committee recommends and will request funding to remove and replace about 8 dead/missing trees in the orchard, under a single permit at cost of a single tree per the agreement negotiated with the Town of Los Gatos in February, and filing retroactively per subsequent agreement with the Town due to town closure during Covid. The town recommended, and the committee agrees, that replacement with 15 gallon containers meets all needs and requirements. The work has been bid out, and we anticipate savings as all work will be done at one time. **Action:** Committee to present a specific funding request to the Board.

Mario brought to our attention a small oak tree that has died on the Regent Trail. This can be included in the single permit at no additional cost. Bids will be sought to remove and chip the tree for mulch, replacing it at the same time as the orchard work. If any danger from the tree presents itself, an emergency request for funds will be made.

The fire trail was cleared of overhanging trees to the required Town Ordinance clearances, cleaned, and shredded redwood mulch placed on the right side. Given the amount of wall and driveway construction at 104 Heintz, no additional beautification will take place at this time. Erosion to the decomposed granite in the road pavers was noted as a trip hazard and repaired by filling and levelling. A few broken pavers should be replaced, and bids will

be sought. We are conscious of the threat of wildfire and will investigate if there are other preventive measures we can take in the common areas.

A wooden rail board has fallen from the section of the entry wooden fence, the opposite side to the one repaired earlier this year. This will be reviewed and resolved.

Mario Gonzalez has taken the lead on re-establishing historic signs and sign holder required by the Town, per ordinance 2047. A design for the sign holder is being bid out currently. As suggested by members of the committee, the Eagle Scouts have been approached, and we are working with the Town's Parks Dept.

Motion: *Nathan Barton moved to renew and amend for reconciliation purposes, the approval of funding of \$606.25 approved by the board at a May 2, 2019 meeting, to reflect the actual amount of the contract entered into on 5/1/2019 by Shawn Cabral of Compass Mgmt for \$715.25, paid from the Reserve Account. Dennis Reker seconded the motion and the motion was approved by unanimous consent without objection.*

ITEM VII – Unfinished Board Business

2020 CA State HOA Elections Rules Changes mandated by Davis-Stirling SB323, effective January 1, 2020.

After reviewing bids and recommendations earlier in the year, Nolan Law firm was hired to draft a Secret Ballot and Voting Rules Policy (Election Rules) to conform to new law. The board's existing election rules were revised in 2006 by the law firm of Hughes and Gill, using the same process this board follows in 2020. Upon review, making no edits or changes to that draft, and in open session, the board approved the draft to be sent to the Members for a 28-day review and feedback period. Grayson Community Management mailed and emailed the draft, collected member feedback, and provided that feedback to the board. The feedback, from four (4) members, raised the question of having co-owners on the board of directors at the same time, which was not mentioned, nor precluded, in prior Heritage Grove election rules or the Bylaws. A brief summary of the new law, which outlines mandatory and discretionary qualifications for board service, and makes illegal some previously legal disqualifications, was presented via powerpoint and discussed.

Previously, under CA law, if an HOA member was in arrears on dues, that could be used as a disqualification from board service, and may have been used to deny ballots by some HOAs. Further, a non-member, someone who does not own a home in the HOA could serve on the board.

The new code provisions redefine board qualifications, creating mandatory/required (shall) and discretionary (may) options for the updated election rules that must now be drafted by all HOAs in the state. In drafting the new election rules, an HOA is guided by the code provisions including:

- i Rules **shall** require any non-member (outside person) to be disqualified from board service;
- ii Candidates in arrears of regular and special assessments **may** be adopted as a disqualification in the election rules;
- iii Candidates in arrears of fines, late payments, collection fees or costs **may NOT** be adopted as a disqualification in the election rules, by law;
- iv The rules **may** include a disqualification on the basis that a candidate has not owned a property in the HOA for a full 365 days;
- v The rules **may** include a disqualification of any candidate with a felony criminal conviction that may present an obstacle to obtaining or retaining legally required fidelity bond coverage for the HOA;
- vi The rules **may** include a disqualification of a candidate from serving at the same time as another person who holds a joint ownership interest in the same lot or unit.

Election rules should serve the best interests of the HOA membership, and after board discussion, the election rules were sent out for member comment. They were drafted to incorporate minimal regulation by the state, not restricting the members in their votes. The factors considered included a long history of elections by acclamation (where there is no voting at all, as only three candidates stand for three open seats each year); the relative small size of the membership (44); the lack of a third candidate for the current year, resulting in a co-owner nomination just before the close for call for candidates, to ensure there would be a full and functioning board; and the important fact that the current board includes a CFO who is a professional finance executive with skills extremely important to the HOA but who was a member for less than one year when nominated.

With a newly instituted landscape committee representing over 10% of the households in the development, there is a fertile training ground and opportunity for members to become involved, bring new ideas and energy, spur volunteerism and become familiar with finances and oversight, and hopefully spur enthusiasm for future board service.

After consideration of of member feedback and discussion of that feedback, Mr. Reker made a motion:

Motion: *Mr. Reker made a motion that the Election Rules, as sent to homeowners for the required 28-day feedback period, be adopted by the Board in its entirety.*

*In addition, if approved by legal counsel, a new option may be added as an item under Qualifications for Candidates for the Board. This option would be that if two (2) co-owners from the same unit submitted their names for Board Candidacy, only one would be allowed to become a Candidate **UNLESS** there were not enough candidates to fill the three seats vacant each year. If approved by legal counsel, the appropriate language would be adopted as an addition to the Election Rules that have been hereby adopted.*

The motion was seconded by Mr. Barton and unanimously approved without objection.

Motion: *Nathan made a motion to approve an amount not exceeding \$350 for legal counsel to determine and recommend if the option above should be incorporated into the new Election Rules. Dana seconded the motion and the motion was approved by unanimous consent without objection.*

Update 6/25/2020: From Legal Counsel Opinion regarding compromise disqualification noted in Election Rule motion:

“A candidate qualification should be static to avoid disputes and potential challenges to the enforceability of the qualification. That said, I would not recommend that the Association utilize the variable qualification proposed in your email, and believe the Association should either allow co-owners to serve on the Board at all times or ban co-owners from serving on the Board at all times.”

Given this clarification and the issues presented, the Board will not pursue this option further. The Election Rules, as written, is adopted unanimously by the Board.

ITEM VIII – New Board Business - None

ITEM VIX – Next Meeting

The next scheduled meeting will be held by Zoom on Tuesday, September 8th, 2020 at 104 Ayala Court at 7:00 p.m.

ITEM X – Open Forum – A productive open forum was then led by Grayson Management. Items included:

- Charles Davis asked about western redbud trees being chosen for the orchard and how a tree rated for Zone 7 Heat Zone will perform in our Heat Zone 3. Dennis will investigate to see if the arborists see benefits for this difference.
- Karen Hayes stated that western red buds in the neighborhood are thriving and mentioned three examples.
- Dana mentioned that eight trees are dead and need to be replaced. Trees will be single trunk, Redbud (merlot or forest pansy, or trained occidentalis).
- Robert and Heddi mentioned past and future landscaping issues and the need to preserve the orchard.
- Cindy suggested that Paulette help the Committee and provide formal plans for the entrance landscaping. Juliette and Dennis commented that Paulette’s help would be very much appreciated.
- Christina mentioned the front entrance does not look like an entrance suitable for \$3M homes. Bushes need to be replaced. Juliet commented that little work was done for 3 months due to the COVID SIP and suggested that relying more on native natural landscaping will be much more preferred going forward. Dana added, in response to Christina, that the bushes will be maintained low, not in the drivers’ line of sight of Blossom Hill Road, which was the problem with the Olive trees as planted. It was also mentioned that the Olive trees were placed forward of the permissible, planned location line because of the existence of remaining cherry tree stumps and roots from trees cut down in 2019 (without permit, with that removal invoiced by and paid in full to the prior landscape company, though incomplete/unsatisfactory).


ITEM XI – Adjournment

Being no further business before the Board of Directors at this time, the Board unanimously approved a duly made and seconded motion to adjourn the meeting at 8:45 P.M.

Board Executive Session

The Board and James Merced of Grayson then went into Executive Session to discuss matters of a private nature.

Approved by the Board

 9/8/2020



Dennis Reker <dennisreker@gmail.com>

Request for Landscape Expenditures

3 messages

Dana Marcus <dana@danamarcus.com>

Thu, Aug 6, 2020 at 3:35 PM

To: Nathan Barton <nathan3185@gmail.com>, Dennis Reker <dennisreker@gmail.com>

Cc: Juliet Vadvilavich <jvad@live.com>

Hi, Nate and Dennis

The landscape committee's priorities and recommendations from the August work session have been considered and are reflected in the attached expenditure requests, and I'm cc'ing the committee chair, Juliet, as a courtesy on this email.

I'm sending this out as a motion for a board of directors email vote because waiting until the September meeting will not allow adequate time for the contractors, Stanton Landscaping and Common Ground inc., to line up the needed supplies and labor to do the work when weather conditions and other requirements prevail.

The results of this email voting will become part of the September, 2020 Board meeting minutes. An email vote by the board requires it be a unanimous vote. If you'd like clarifications or if anything needs further explanation or context, let me know or just give me a call.

Thanks so much.

Dana

408 316-8710

dana@danamarcus.com

 **2H2020 Landscape larger expenditures.pdf**
1061K**Nathan Barton** <nathan3185@gmail.com>

Thu, Aug 6, 2020 at 7:52 PM

To: Dana Marcus <dana@danamarcus.com>

Cc: Dennis Reker <dennisreker@gmail.com>, Juliet Vadvilavich <jvad@live.com>

I second the motion and approve from my end. Looking forward to getting this work done. Our budget is in good shape, and I am confident we have strong sufficient reserves now especially knowing the street light replacement is the town's responsibility.

Thanks for all the work in pulling this together.

Nate

[Quoted text hidden]

 **2H2020 Landscape larger expenditures.pdf**
1061K**Dennis Reker** <dennisreker@gmail.com>

Thu, Aug 6, 2020 at 7:58 PM

To: Nathan Barton <nathan3185@gmail.com>

Cc: Dana Marcus <dana@danamarcus.com>, Juliet Vadvilavich <jvad@live.com>

I vote "Aye on" all 5 motions.

The motions carry unanimously without objection.

Dennis

Request for Expenditure Approval via Board email vote

I'd like to make the following five (5) expenditure request approvals for a Board email vote, as approving them at the September meeting does not provide adequate time for the contractors, Stanton Landscaping and Common Ground Inc., to line up the needed supplies and labor. The results of this email voting will become part of the September 2020 Board meeting minutes.

I make a motion to approve the following expenditure from the Operating Account, General Repairs, to replace one broken and 2 older original lights that present a safety issue on the walkway between Regent and Regent:

Walkway lighting replacement – Model: Stratum, 3 lighting fixtures and lighting installed. \$225/light + labor
Total = \$1,175 from Operating Account, General Repairs

I make a motion to obtain required permits and authorization from the Town of Los Gatos for the removal and replacement of up to 14 dead and missing trees in the Blossom Hill Orchard this fall. Replacement will be with Town approved Redbud trees to be done as soon as planting weather conditions allow.

\$2,895 to be charged to the Reserve Account (Component 1008) - Trees Replacement.

\$2,945 to be charged to the Operating Account, Grove Maintenance.

\$250 Town of Los Gatos Permits to be charged to Operating Account; Permits & licenses.

Total project cost = \$6,090.

\$120/removal/ stump grind (dead tree, chip the branches and leave chips, and remove or grind stump. Same price for just an old stump where the tree previously was removed). 6 orchard stumps and 3 dead Trees = **\$1,080 tree and stump removal**

\$165 per Redbud tree (15-gal western redbud and irrigation emitters). 14 Trees x \$165 = **\$2,310 Trees & Irrigation emitters**

\$175 per labor tree to plant, mulch, and set up irrigation. 14 Trees x \$175 = **\$2,450**

Tree Replacement:

- The Merlot and Western Redbuds, either or both, are the choice to plant in the orchard because of the clay soil.
- The Merlot and Western Redbud will need good drainage, or they will struggle.
- The west side of the orchard where the walkways connect has a drainage problem, historically and currently, so we will need to plant them a little higher to reduce any water that might collect around them in this area.
- The Akebono Cherry will have troubles in the orchard because of the poor drainage and clay soil

Total for 14 trees contracted to Common Ground Inc. = \$1,080+\$2,310+\$2450 = \$5,840.

Plus \$250 Permit fees to Town of Los Gatos (paid by HGHOA directly to Town)

NOTE: Checking with the Town Arborist to see if the Town will give us 2 more trees for the curbside strip where trees are missing. Those two trees are NOT in this proposal.

I make a motion to approve \$120 for the Town permitted removal of the dead Oak tree in the Linear Park, and replaced as soon as pricing is available and planting conditions prevail; and an additional \$360 to grind 3 stumps in the Heintz Exhibit Area (\$120 each, done on same time orchard stump grinding is being done); and up to \$250 to trim the Oak tree near the top of Heintz Circle, leaning over 100 Heintz Circle. All to be chipped into mulch for the orchard.

The \$730 total Amount to Common Ground Inc. for tree removal and trimming would be charged to the Operating Account: Landscaping Extra.

I make a motion to approve \$2,300 for two rototilling's of the Flowering Orchard in preparation to plant the Mustard Crop. This motion is only for the rototilling and does not include planting of the Mustard.

The first tilling to be done in the middle of September - \$1,150. The second tilling to be done in the middle to end of October to prepare the soil to plant the mustard seed - \$1,150. Planting of the mustard seed is an additional cost and will be just before the first rains, usually at the end of October early November. (tbd)

The \$2,300 Amount for rototilling would be charged to the Operating Account: Grove Maintenance.

I make a motion to approve the following expenditures from the Reserve Account later this year:

Seal & Repair the stone wall along the Lighted Walkway: Pressure wash wall: \$1,000, Repair, prep, and seal: \$2,400. **Total = \$3,400**

To be charged to the **Reserve Account (Component 501) - Block Walls - Seal/Repair** (\$3,510 Reserved at Zero yrs. Remaining Useful Life in 2020)

NOTE: This work can likely be deferred into 2021 to conserve Reserves. There are no major cracks needing filling at this moment.

Respectfully submitted for a seconding of motion and unanimous approval via email Board of Directors vote.

Dana Marcus

Secretary & Landscape Committee Co-chair