

RESPONSES TO MARCH 2024 OPEN MEETING COMMENTS and CORRESPONDENCE

Please note these responses will always be attached to packets for Open Board meetings following the meeting where the comment was made and will also be published with the monthly newsletter. As time, quantity of homeowner comments, and level of research necessary to prepare full and accurate responses permits, these responses may also be emailed mid-month after the meeting date mentioned in the heading.

HOMEOWNER FORUM

1. Gerry Gelfand, homeowner: Saturday morning coffees continue with as many as 50 people attending. This is a good opportunity to meet neighbors and share information. This last Saturday our City Council Representative, Eric Guerra, attended seeking input on topics and issues of interest/concern to our homeowners. He invites ideas, questions, and comments.

Subjects: Social Activity, Local Government

Board Response: Thank you for your comments. We invite all homeowners to respond to the Representative's request. Our General Manager will email Marcy Best, Chair of the Outreach Committee, the information to solicit responses for Representative Guerra.

2. Nancy Arndorfer, homeowner, and Chair of Insurance, Legal and Safety Committee: Representative Guerra has been a good friend to Nepenthe.

Subjects: Local Government

Board Response: Thank you for your comments.

3. Barbara Beddow, homeowner: When she had a problem Eric Guerra called her personally. She welcomes Nicole Marks as our new GM.

Subjects: Local Government, General Manager

Board Response: Thank you for your comments.

4. Ricardo Pineda, homeowner: There is a report from ILS about defibrillator. Are there any responses from the Board?

Subject: Safety Equipment

Board Response: The Board has several questions. However, the report was not included on the March agenda items for discussion and must be agendaized for the Board to enter a discussion. The Board will prepare questions for the Chair of ILS so the

Committee can prepare responses. After responses are provided, the Board can place the topic on the agenda for full discussion.

5. Ashley Tangeraas, homeowner: There was a fire at 1001 Dunbarton. What happened?

Subject: Emergency Response

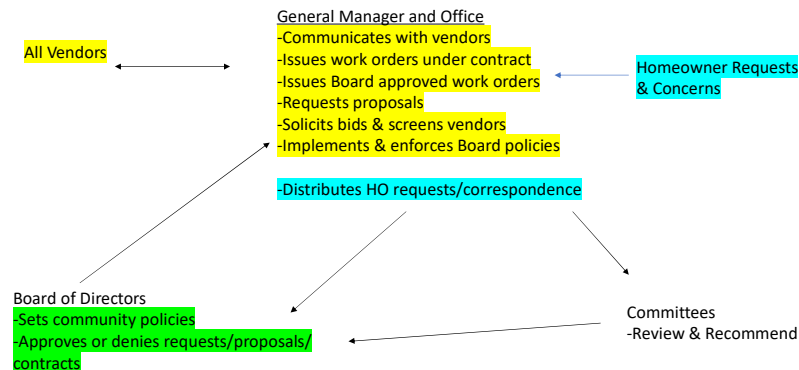
Board Response: The General Manager reported the fire was caused by hot fireplace ashes being placed in a garbage container, which ignited the wall of the dwelling. No injuries occurred.

CORRESPONDENCE

1. Bill White, homeowner: Feels his appeal to permit self-purchase of a replacement tree would have been better addressed to Carson Landscape instead of the Board, based upon the changes made to the Vanderbilt cul-de-sac.

Subjects: Common Area Planting, Vendor Contact

Board Response: There are two separate issues involved in this topic. First, Nepenthe has a long-standing policy of not permitting homeowner planting or payment for upgraded planting in common areas. The Board followed that policy in denying Mr. White's request to purchase a larger replacement tree. Sympathy for the loss of mature or established planting due to a natural disaster does not change that policy. Second, the decision to make alterations on the Vanderbilt cul-de-sac was made by the owner of the landscape company without input or request from the Board. While president Markus Dascher did encounter Frank Carson at the site, no request was made by a Board member or the full Board. Contact with vendors, beyond casual contact, is via the General Manager, not by a homeowner or the Board. The process is:



2. Ricardo Pineda, homeowner: Questions source of Board comment at last meeting regarding the number of wells needed to support non-potable water needs.

Subject: Wells

Board Response: First, an apology for Director Nelson's response at the meeting. One reason Directors do not respond to homeowner comments at meetings is to comply with legal issues about agenda disclosure (see response 4 below), another is that, due to constraints in opening discussions on topics not on the agenda, full information and context is constrained. This is a perfect example of the difficulties which can arise when that restriction is broken. There are many still unknown issues involved with the implementation of SB1573, which requires non-potable water for irrigation of non-useful turf. A quick answer does not provide sufficient information or background to make the information useful or pertinent. Before any plans are made, much more information is needed.

3. John Apostolo, homeowner: The recent planting at his location does not equal the number, type or size of plantings at other units which occurred at the same time. He is questioning the choices and is suspicious that the sparsity is a type of retribution for his speaking out about Board positions.

Subject: Plant selection and density

Board Response: Many factors determine plant selection and placement. The landscape company is guided by the Nepenthe Vision Document and approved plant list as it makes decisions about planting. Additional factors include the terrain, degree of sun or shade, slope of the area, type of existing plantings and root exposure in the area, water use and expected maintenance and material availability. Neither the Board nor the General Manager is involved with plant selection or placement. The location in question is dominated by evergreen trees and is on a slope. The Grounds Vision Document calls for no shrubbery planting under redwood trees, as the shrubs compete with the trees for water. Typical landscaping where there are redwoods and sloping terrain will include rocks to control erosion and 'duff' from the trees themselves will mulch the area. All areas in Nepenthe with the same terrain, existing planting and slope will probably be eventually landscaped as this area of discussion. As our climate changes, water availability decreases and maintenance costs rise, our landscaping will need to change. Landscape decisions and expenditures are not based on address, but over the entire common area.

4. Peter Pelkofer, homeowner: Feels the Board does not communicate properly with homeowners. While we announce that our open meetings are business meetings, he feels they should be Association meetings. He finds no law that says the Board cannot respond to questions and topics asked during the Homeowner Forum. It is inadequate to wait for the following month to receive written responses to those questions. Wants to see more time at meetings to listen to homeowners and to respond to them at the meeting – as an Officer, not a Board member. There should be meetings on Officer topics (President, Vice-President, Secretary and Treasurer) rather than as a Board.

Executive sessions are not appropriate venues for making decisions such as continuing flood insurance. Approving contracts when there is no reason for privacy is a violation of the law.

Subjects: Open Meetings, Agenda items, Responses to Homeowners, Executive Sessions

Board Response: In determining the appropriateness of our actions, this Board follows the legal advice of experts in the field of HOAs and the best practices followed by other HOA organizations. We will continue to do so. While there is no specific section of the law stating that a Board cannot reply to a Homeowner during an open meeting, there is clear legal grounding that states items to be discussed must be disclosed to the Homeowners before the meeting. The Davis-Stirling Act is modeled upon the Brown Act with which local governments must follow. Both laws make this requirement so that, if a person is interested in a particular issue or topic, they have notice that it is to be discussed and can decide to attend and make known their opinion. To have a discussion on topics not on the agenda violates that principle. This Board makes a particular effort to respond to all comments and letters. Preparation of those responses takes time and, while we would like to issue the answers mid-month, that goal is not always possible. We trust that Homeowners appreciate having full information and details in the responses we provide. Committee meetings are not so constrained and may be closer to the type meeting the writer refers to as 'Association' meetings. Homeowners are encouraged to attend these meetings to both learn more about the issues involved and to offer their ideas and opinions. There is also an annual Homeowner's Forum and there have been topic-specific forums.

5. John Bloomer, homeowner: Wishes to follow-up on a landscape request submitted in 2022. He includes a specific remediation plan.

Subject: Landscape Remediation, Specific plant requests

Board Response: The Grounds Committee voted to recommend the initial remediation request, but the Homeowner then changed the request. Since that time, few landscape requests have been submitted for approval due to more pressing landscape priorities. As we address landscape in 2024, we will still be constrained and, most likely, only address the most critical needs. Homeowners should still submit requests so the Grounds Committee and Board are made aware of Homeowner concerns. Decisions on work will be made within the Grounds Committee Ranking plan and in concordance with the Nepenthe Vision Plan, approved plant list, and within plant availability.

6. Nina White, homeowner, member of Finance Committee: Wishes to know why Carson invoice 419159 and Grove invoice 419154 were paid before the work was done.

Subject: Payment to Vendors

Board Response: All the tree work (Grove) for zones 1-6 was completed mid-December 2023. The final zone 7 tree walk proposal was approved in November 2023 and work was completed January 5, 2024. The total invoice #419154 dated 10/31/23 in the amount of \$328,885 was for zone tree work plus \$1,060 for tree removal at 1423 Commons plus \$360 for maintenance at 1016 Vanderbilt. Both invoices were paid with Board agreement to known vendors who were in the process of completing the work. The Board felt that payment in the year the work was contracted was important for accounting purposes.