



# Prosperity Heights HOA

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SEPTEMBER 2, 2020

# Agenda

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- Welcome and Opening Remarks - Cober
- Approval of minutes from July 29,2020 meeting - Frank
- Prosperity Day - Recommended 2020 suspension - Cober
- 10 minute Open Forum - Neighbors
- Common Area Maintenance and note about maintaining clear walk ways (adapted from Theda Foster's request) - Duggal
- Election of replacement Board President - Cober
- Treasurers Report (how are we doing on collecting annual dues?) - Fulk
- ACC Report (number of requests, nature of changes, any notable issues, pending requests, average time for request turnaround, status of ACC form updates) - Boveri
- Hayes email responses (July 29 and subsequent 8/16 emails)
  - Will provide the set of questions submitted and associated responses
  - Clarification of means by which the Board communicates with our neighbors
- HOA Next Steps
  - Moving HOA Business and Notes to the Cloud - Westerfield
  - Election of Directors - Special Meeting to be held

Imagine what our real neighborhoods would be like if each of us offered . . . Just one kind word to another person.

- FRED ROGERS

# Agenda Topics

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Approval of minutes from July 29, 2020 meeting – Andrew

Prosperity Day getting COVIDed – Rich

10 minute Open Forum – Neighbors

Common Area Maintenance – Duggal

# Board Election

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There shall be a President, Vice President, Secretary, and Treasurer (Bylaws, Article VII, §1).

Term is two years (Bylaws, Article VII, §3).

## Election

- Officers will be elected at the first BOD meeting following the annual meeting (Bylaws, Article VII, §2).
- Conducted by secret or written ballot (VPOAA § 55.1-1816.B).

## Resignation

- Board members can resign at any time with written notice to the Board, the President, or Secretary (Bylaws, Article VII, §5).
- Vacancies are filled with a regular or special meeting following the receipt of the resignation (Bylaws, Article VII, §6).

*Nominations for our open President position?*



# Agenda Topics – ACC Repot

prosperityheights.org/index.php/exterior-alterations

Apps Key HR Units LinkedIn MicroStrategy - Gl... Fairfax County Em... WD Issue Logal... HR Systems and St... What's New | MCL... Other book

## Exterior Alterations

exterior construction shed paint deck fence landscaping Remodeling architecture

Requests for exterior alterations (decks, exterior paint color, fences, sheds, etc.) must be submitted & approved by the Architecture Control Committee (ACC) prior to work commencing. Details below:

- Step 1. Please download and review the Prosperity Heights Architecture Standards prior to submission.
- Step 2. Download and fill out the EXTERIOR ALTERATION APPLICATION FORM (AND INSTRUCTIONS).
- Step 3. Scan and email the completed Exterior Alteration Application to the Architecture Committee at [architecture@prosperityheights.org](mailto:architecture@prosperityheights.org)

Please allow up to four (4) weeks for review and response after submitting your request.

Current ACC members are: Steve Boveri (Chair), Craig Dellorso, Andrew Frank, Brooke Logan. They can be reached at: [Architecture@prosperityheights.org](mailto:Architecture@prosperityheights.org)

The ACC currently has no meetings scheduled. The committee will post notification of any future meetings, including time, date, and place of each meeting on this website.

< Prev Next >

### Events

- Prosperity Day
- Annual HOA Meeting
- Ice Cream Social
- Halloween Parade
- Winter Caroling and Sledding
- HS Seniors
- Food Trucks

### Services

- HOA Services
- Government Services

### HOA and Regulations

### Most Read

- More Food Trucks in September
- Prosperity Heights Homeowners' Association
- Welcome
- Annual HOA Meeting
- HOA emails & contact

### Popular Tags

- education
- schools
- pools
- inova
- trash
- garbage

# Responses to Emails

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**From:** MiCHAEL HAYES <[08mustang08@gmail.com](mailto:08mustang08@gmail.com)>  
**Sent:** Wednesday, July 29, 2020 1:44 PM  
**To:** Brad Wilhelm <[bsw81@aol.com](mailto:bsw81@aol.com)>; Prosperity Heights HOA <[board@prosperityheights.org](mailto:board@prosperityheights.org)>  
**Cc:** MiCHAEL HAYES <[08mustang08@gmail.com](mailto:08mustang08@gmail.com)>; [ARCHITECTURE@prosperityheights.org](mailto:ARCHITECTURE@prosperityheights.org)  
**Subject:** Concerns

Dear Brad and Members of the Board,

Thank you in advance for your prompt response to and consideration of the following:

**1. Distribution of Information by Members.**

Per Section 55.1-1817 of the *VA Property Owners' Association Act (hereinafter, the POA Act)*: "*The board of directors shall establish a reasonable, effective, and free method, appropriate to the size and nature of the association, for lot owners to communicate among themselves and with the board of directors regarding any matter concerning the association.*"

A. Is the Prosperity Heights Facebook page the "method" the Board has effectuated to accomplish this task? **No.** Neither is a more recent Facebook page called Prosperity Heights POA that was started by a Board Member, Mark Westerfield. The Association should establish either a bulletin board or a blog where all communications between the Members themselves and between Members and the Board will be public and available to all. We have our web site where we post information and our shared email address for the Board and for ACC. We understand that this still may not be sufficient and we can open a blog/ bulletin board on our web site that can be open and transparent for all. Prior to establishing a bulletin board/blog sufficient to provide the full and open communication required by POAA Section 55.1-1817, the POA must have a Board Resolution in place to set some rules re: monitoring, offensive postings, deletion of postings, etc. There are also other considerations, such as who will do the monitoring, so please call Ami or me to discuss. This can be an agenda topic for our next meeting.

# Responses to Emails

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B. If so, why is freedom of speech on this site being stifled by one of its administrators, and Board member, Gina North; as evidenced by the deletion activity of yesterday? Are there rules and guidelines for the use of this particular Facebook Group site; and if so, what are they and where are they posted? Do you recommend that the members set up a separate Facebook page for their freedom of speech rights to be protected?

The Facebook page is not a board communication vehicle. I am most certain that Gina was not intending to subvert anyone's freedom of speech given the explanation of the incident. Per prior response, the recommendation would be for us to set up an open blog/bulletin board accessible through our web site.

C. If the Prosperity Heights Facebook page is not the Board's method for allowing members to distribute information among themselves and with the Board, as per the *POA Act*, please advise if another method is in the works. [Answered already.](#)

# Responses to Emails

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## **2. Recent Board Member Election.**

Do you think the manner in which this election was handled exhibited fairness to the membership at large? I refer specifically to the following:

- Only those present at the annual meeting were allowed to vote;

Under Bylaws Article III, Section 7, if 1/10 of voting members attend the Annual Meeting in person or by proxy, then the vote is valid. We have always operated this way. I believe we had close to 60 homeowners on the annual meeting call at one point.

- Only one hour was allowed for members to figure out how to vote and email the attorney;
- Ballots were not sent out to the whole membership to facilitate either personal voting or the assignation of proxies; and
- The notation of the new Board candidates on the Zoom screen was not seen by members joining by phone.

The election was held in as consistent a way as we could given the circumstances. Procedurally it was parallel to every other board election. The Zoom meeting was attended by more board voters than we have had during in person meetings. Voting has always been done by attendees or proxies - same way as we did this time. Brad did a very fair job of representing active candidates on Zoom for all to see.

# Responses to Emails

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## **3. Recent Lawsuit Against Association .**

I respectfully request that, in the interest of transparency and fairness, the Board should post the entirety of the paperwork re the lawsuit on the Prosperity Heights website to allow the membership to see both sides. The presentation of the facts of the legal action during the recent annual meeting on Zoom was very biased, in my opinion; however, I didn't want to disrespect either the Board or the Architectural Committee. I hope that inaction on my part at that time was appreciated. The website posting should include:

- Hayes' Exterior Alteration Application;
- The Cease and Desist Order that initiated the legal action;
- All emails between the relevant parties, especially the ones between you, Ivan Yurisevec and Steve Boveri;
- Plaintiff's Complaint;
- Defendant's Answer and Grounds of Defense;
- Request for Admissions;
- Request for Production of Documents;
- Interrogatories from both parties;
- Transcript of Ivan's testimony; and,
- Settlement Agreement.

The Association is under no legal obligation to post those lawsuit materials to the website. If you would like to post the lawsuit, you are free to do so via the Member bulletin board/blog when we set it up. Please remember the impression this may have on the general public and desirability of purchasing a home in a neighborhood where one could perceive there is general animosity and contentiousness.

# Responses to Emails

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## **4. Recent Audit.**

I further respectfully suggest that, in the interest of transparency, accountability and ethical behavior, you post a certified copy of the entirety of the recent association audit on the Prosperity Heights website.

We can post the letter of findings from our auditor to the web site.

## **5. Architectural Committee.**

Thank you for your recent posting of both the identity of the Chair and members of the Architectural Committee on the Prosperity Heights website. However, it has come to my attention that exterior alteration applications have been submitted since my email of 7/20/20 yet no meeting has been scheduled to discuss them and the applications have not been disseminated to me. Please advise.

ACC applications contain confidential information that is not ours to share. We are not sharing individual applications and personal owner information outside of the ACC. The ACC holds no meetings. The ACC will continue to report on applications and decisions as they come up.

# Responses to Emails

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**From:** MICHAEL HAYES <[08mustang08@gmail.com](mailto:08mustang08@gmail.com)>

**Sent:** Sunday, August 16, 2020 5:45 PM

**Subject:** Request for Document Examination and Copying

Rich Cober (VP), Managing Agent (Keith Fulk), Members of the Board, Chair of the Architecture Committee (Steve Boveri) and Members of the Architecture Committee:

I respectfully direct your attention to the **VA Property Owners' Association Act, subsections 55.1-1807 and 55.1-1815** which give me the right to examine and copy various HOA documents. Towards that end, I herewith request to examine, and copy, if necessary, the following documents for the period **January 1, 2020 to date** for the purpose of personal review:

**1. Architecture Committee (ACC) documents:**

- All documents submitted by owners; All documents from the ACC to owners; All emails from ACC members to owners re requests submitted by an owner; All ACC agendas and all documents referenced or attached to the agenda when circulated; All meeting minutes.

**Under the Property Owners Association Act, § 55.1-1815(C)(9), individual lot owner files and information are confidential, and cannot be disclosed to other members:**

**C. Books and records kept by or on behalf of an association may be withheld from inspection and copying to the extent that they concern:**

- 9. Individual lot owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.**

I would also refer you to the confidentiality provisions in the Prosperity Heights Access to Records Policy Resolution dated 07-10-2012. The ACC deals exclusively with lot owner requests for the exterior alterations of their properties. So all documents and correspondence between the ACC and individual lot owners is confidential, and we cannot fulfill your request to access lot owner files. In addition, because all ACC approvals are done by email, without discussion or any sort of meeting of the ACC members, there are no ACC meeting agendas or minutes to provide. We have communicated a few times both in our meetings and email exchanges that the ACC operates without convening meetings due to the ability to review and provide feedback electronically.

# Responses to Emails

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## 2. Board documents:

- All documents (including emails) exchanged between Board members re HOA business;
- All agendas and all documents referenced or attached to the agenda when circulated;
- All meeting minutes.

Please let me know when and where I, and/or my authorized agent, may get together with the designated individual(s) to facilitate this examination and copying.

You are absolutely entitled to inspect the non-confidential records of the Association under § 55.1-1815 of the Property Owners Association Act, and under the Prosperity Heights Access to Records Policy Resolution dated 07-10-2012 (which is enclosed for your review). Please submit the form attached to that Resolution to make this request.

Please also note that the hourly rates and copy costs for your records inspection (see the Resolution) will be your responsibility, and the estimated costs of the records inspection must be paid in advance. Then, prior to receiving any copies of the records, the remaining balance of the records inspection costs to the Association must be paid.

Once a date and time has been set up for the records inspection, you will be given supervised access to non-confidential records per the Property Owners Association Act, § 55.1-1815 and the Access to Records Policy Resolution. I would add that Mark Westerfield has volunteered to create an online repository for HOA documentation. Perhaps you could hold off until he has established and had time to import files into that repository and then you are welcome to review and obviously would not have to incur the costs associated with the in-person meeting, photocopying, etc.

# HOA Next Steps

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Moving records to the Cloud – Mark

Call for interested Directors – by COB 9/9

- Board will hold a special session to vote on those that are interested in running. This is a board vote and we will coordinate the meeting for a time after 9/10