I'On Assembly Board of Trustees Meeting

April 24, 2023 Board Meeting Minutes

Members Present: Julie Hussey, Lon Waggoner, Bob Adams, Michael Spalding, Simon O'Shea, and Chelsea Darcangelo

Absent: Stephen Wood

Guests: Shawn Willis, I'On Assembly Attorney

Management Company: Emily Simpson & Mary James

Homeowner Forum: Monika Bonn Miller, 37 Jane Jacobs; Dennis Jordan, 214 N. Shelmore; Taylor Bush, 164 Civitas; Donna & Bud Davis, 3 Edenton; Roy & Karen Rathbun, 30 Mises; Ed Clem, 167 E. Shipyard; Amy Sage, 63 Joggling; Susy Teale, 71 Robert Mills Circle; Dee Fortson, 29 Duany; Andy & Priscilla Minkin, 8 Edenton; Anna Chalmers, 17 Duany; Ellie McLaren, 67 Robert Mills Circle; Leah Lindemuth, 67 Sanibel; Tom Graham, 51 Krier Lane; Joseph & BJ Barnes, 27 Mobile; Lana Bilic, 9 Duany; Catherine McCullough, 15 Robert Mills Circle; Stacey & Michael Koon, 47 Robert Mills Circle; Emmett O'Lunney, 23 Perseverance; Catherine Smith, 38 Krier Lane; Jennings Austin, 4 Edenton; Phil Helmstetter, 7 Robert Mills Circle; Antonia Fokas, 34 Fernandina; and Stephen Zaleski, 179 Ponsbury Road.

Andy Minkin thanked Julie and the Board for being open to having conversations surrounding their concerns about the possible cemetery use at lot CV-9. Andy and Julie met last week where they discussed the history along with further details on the background surrounding CV-9.

Tom Graham joined the meeting stating that he did not know what the uproar regarding lot CV-9 was that he has been hearing about. He stated that Joe Kohl provided a sketch of the shattered monument and drew a picture of what it could look like reassembled which inspired the developers. He relayed his personal intentions and thoughts of interning his late wife at the memorial park and renaming it after her but stated that it didn't go further than that. Catherine McCullough expressed that she has no problem with historic preservation but does not want a new cemetery. She and several other residents along Robert Mills expressed that the idea had never been presented to the homeowners. Jeremy

Anspach spoke on the church developing plots at the civic lot around it which was represented by the developers as a memorial park and not a civic lot. Tom replied that they aren't planned at this time but would like to have an open forum with the community to answer questions. Roy Rathbun asked that this be done as soon as possible. Tom stated that they have no immediate plans to do anything. Anna Chalmers noted the timing of the Supreme Court case and the timing of the surveyors on the lot being odd which is what arose owners curiosity. Tom clarified his role in the I'On Company and noted that he has a vested interest but expressed that Vince is the General Manager and makes all decisions. Julie asked if there were promises to protect the cemetery. Tom noted that they have been paying taxes on the property. Monika questioned if the HOA is aware of an agreement that existed with Vince Graham in regard to the civic park with the plan to be a cemetery one day.

Call to Order: 6:21PM by Julie Hussey

Approval of Minutes:

Bob made a motion to approve the amended March 20, 2023 I'On Assembly Meeting Minutes. Motion Seconded. All in favor. Motion passed unanimously.

President's Report:

Julie Hussey made the below remarks regarding concerns raised by residents and the potential impacts of expanded cemetery use on lot CV-9.

Thank you to everyone who has taken the time to let me (Julie Hussey) and my fellow Board members know about what they have seen, heard, researched, and feel about the potential of new burials on the wooded area bound by Edenton, Robert Mills Circle, and Duany- an area known as CV-9 and referred to as a Memorial Park in marketing materials by the I'On Company.

While I know there has been some frustration that we have not done a lot of speaking, please know that we have been working overtime listening, reviewing, analyzing, and looking for a path forward which meets:

1. Our shared goal to protect the value and desirability of the lots in the I'On Neighborhood.

2. The historical importance, value, preservation, and safe keeping of the Property on which I'On's namesake's family members were buried many, many years ago.

Concern about a development plan for CV-9 that could include new burials or a columbarium was heightened after the I'On Company was seen marketing the property to an area church and then again when a crew sent by the I'On Company surveyed the property and marked trees.

At this point in time, details of any potential cemetery expansion are a bit speculative. The Board is not even clear exactly which parts of CV-9 could be sold by the I'On Company or used for new burials and which parts are considered to be owned by the heirs of those buried there. We are not aware of any contract on the property, any license request to the State cemetery board, any permit requests or applications presented to the Town of Mount Pleasant, or any submission to the IDC regarding CV-9.

Knowing their desire to protect the family's historic property, we have been in contact with a senior member of the Maybank family, which includes many of the primary heirs of the historical cemetery within CV-9. We have been told by this family member that their attorney has requested a copy of the recent survey and has yet to receive the requested survey copy.

Through emails, texts, conversations, and last month's homeowners' forum, neighboring property owners expressed significant concerns about CV-9 being used for new burials. The board was asked to take legal action against the I'On Company to prevent expansion of the cemetery, based on representations neighboring property owners believed were made to them that CV-9 would only be used as a green space park, and also based on the fact that CV-9 was never turned over as a park to the Assembly.

Upon being presented with the request to take legal action against the I'On Company, the board engaged in a thorough review of the residents' request with the Assembly's legal counsel. As part of that review, the board asked the group of residents requesting that the Assembly take legal action to send us all the information that they had, in particular any information they believed supported the claims they were asking the Assembly to pursue, especially if the information would otherwise not be available to the board in the Assembly's records or the public records. This request for information was made because the board recognized the need to be able to review everything relevant to the titleholder's request.

The board has now completed its review.

We do not see where a specific promise to turn over CV-9 or any portion of it to the I'On Assembly was ever made by the I'On Company. Additionally, board minutes from 2013 reflect that it was specifically agreed upon that CV-9 would not be turned over to the Assembly, but instead retained by the I'On Company.

Nearly every document we saw that references the area that is now CV-9 referred to it or labeled it as either a "cemetery" or a "memorial park". Those that did not, did not label it at all or instead labeled it as a civic lot. In fact, the Technical Plan from 1997 that was part of the initial PD zoning ordinance approval with the Town specifically labels the entire corner area as a "cemetery", and depicts the area as being a much larger cemetery than the historical Jacob Bond I'On cemetery. We found that the term "memorial park" is commonly used to describe cemeteries, and in fact, the dictionary definition of "memorial park" is "cemetery".

Additionally, we did not find anything labeling the CV-9 area as simply a "park" or a "green space", or showing where the I'On Company had specifically communicated that CV-9 would remain a green space or that it would not be used for burials in the future. The materials we received from residents all referenced CV-9 as a "memorial park", and none of them contained any specific representations that CV-9 would remain a natural green space or that it would not be used for burials.

The board minutes from late 2014 through spring of 2015 show that during that period the I'On Company was in discussions with a church for the sale of CV-9 to that church for the construction of a church building on CV-9. When nearby residents learned about those plans, like now, they came to the board with their concerns, including traffic and increased activity in an otherwise quiet part of the neighborhood. The I'On Company's discussions with the church ended by early 2015, and by May 2015, the I'On Company presented a new set of proposed restrictive covenants for CV-9 restricting its use to a "memorial park". The minutes from the May 28, 2015 board meeting reflect that the board discussed the proposed new covenants at the meeting and approved them, noting that they limited the footprint of any building to be built on CV-9 to 850 square feet. In addition to the CV-9 restrictive covenants being reflected in the board minutes, the Board communicated the I'On Company's decision to impose the restrictive covenants on CV-9 through an email blast on July 2, 2015. The email blast said that the new restrictive covenants on CV-9 were the result of discussions among concerned neighbors in the immediate area of CV-9, the Board and Vince Graham. Neither the board meeting minutes, nor the email blast identified which neighbors in the

immediate area of CV-9 were involved in those discussion. However, our understanding is that the new CV-9 covenants were viewed favorably at the time because they accomplished the goal of the neighbors in the immediate area of CV-9, which was to stop the potential construction of a church building that would negatively impact them.

At first read, the CV-9 Restrictive Covenants appear to only benefit the I'On Company by permitting an 850 sq ft building and uses that appear to be consistent with memorial parks.

But it is also important to note that the document's language makes it clear that the covenants are also expressly intended to be for benefit all the residents in I'On. Specifically, the language of the CV-9 covenants say that they are "for the benefit of all owners of the lots in the I'On Neighborhood," and for the purpose of "protecting the value and desirability of the lots in the neighborhood".

The I'On Company additionally acknowledged that the CV-9 covenants could be amended in the future to change permitted uses of CV-9 by including in the document a specific procedure for amendment that includes input from neighborhood residents. Specifically, the CV-9 covenants can be amended through consent of at least 50% of the property owners in the neighborhood, along with the consent of the I'On Company. According to the way the document was drafted, the consent required for amendment does not involve any consent by the Assembly itself, but just the consent of residents as titleholders.

While the board was engaged in the review process with the Assembly attorney, concerned residents – without any prompting by Board members - posted flyers around the neighborhood about the potential expansion of the cemetery. These flyers encouraged residents to ask questions and voice concerns. Even though I was not aware that my name and email address was on the flyer, until after I started receiving residents' questions and concerns, the emails received generated additional feedback for the board to hear from the neighborhood at large as we were engaged in the review process with the Assembly's attorney.

The vast majority of feedback received from residents expressed concerns about the addition of new burials on CV-9 and the implications on property values and desirability, including emotional concerns, traffic from processions, safety due to the minimal exit options from the back of the neighborhood, and concern about the destruction, peril, or other adversity to the historic cemetery surrounded by CV-9. The feedback received so far indicates that not only are residents significantly

concerned about potential impacts to property values and quality of life, those concerns are not limited only to the residents nearest to CV-9. The use of CV-9 for new funerals and burials appears to be an issue of concern throughout the neighborhood.

For this reason, the board intends to establish an Ad Hoc Advisory committee for this issue. This committee will include interested homeowners and will be put in place in the coming days. The committee's initial task will be determining the level of concern and support throughout the neighborhood.

Finally, there have been suggestions that the Board should buy the cemetery, a suggestion which drives the questions about what exactly would be purchased and what a fair price might be? To date, the I'On Company has not offered to sell the property to the Assembly nor has the property been appraised for its value to the Assembly.

Lon made a motion for the Board to establish an ad hoc advisory committee for the purpose of determining the level of neighborhood-wide concern with potential expansion of cemetery use on CV-9 and level of neighborhood-wide support for the neighborhood titleholders to seek a covenants amendment to prohibit expansion of cemetery use on CV-9. Michael Seconded. All in favor. Motion passed unanimously.

Bob Adams added that he is voting in favor because this motion does not express, imply or infer any other action in the future by the Board due to the specific language of the motion.

Lon made a motion for the Board to decline, at this time, the request made by residents for the Assembly to commence and pursue legal action against the I'On Company based on the potential of use of CV-9 as a cemetery, representations regarding the use of CV-9, or the retention of CV-9 by the I'On Company instead of turning it over to the Assembly as common property. Michael Seconded. All in favor. Motion passed unanimously.

Julie briefly reminded residents that the HOA office has copies of mailbox keys if owners have lost theirs.

Treasurer Report:

Bob reported that so far this year legal fees are lower than projected. This is because we only recently received attorney invoices. He advised the Board not to be misled by this number though due to current litigation and invoices that we have not yet received.

Year to date, transfer fees received are only at $7,800. It was noted that usually by this time in the year, we would have received roughly $20,000 in transfer fees. However, there are $15,000,000 in home sales on the market right now so hope to catch up.

It was noted that accounts receivables are very low, at just under $3,000. Bob thanked Emily for all her due diligence and follow-up on these accounts.

Lastly, Bob stated that he would like to receive Board approval for the 2023 reserve and capital fund budget. Simon asked if this includes a number for the amphitheater. Bob responded that it does not, but money has been set aside for this if it gets board approval.

Bob made a motion to approve the 2023 reserve and capital fund budget. Lon Seconded. All in favor. Motion passed unanimously.

Amenity Report:

Simon reported that the resurfacing of the docks has now been completed.

2023 boater registration has begun, and the boat ramp will be rekeyed on April 28th.

It was noted that the waterline has been installed at the docks.

Simon stated that the playground subcommittee has now been formed and stated that they met last week. A survey has been created to gather feedback from the community to understand the neighborhood's priorities. The survey will be sent out tomorrow, April 25th. He asked the community to please complete this survey.

Lastly, the amphitheater subcommittee continues to make progress. The group met onsite and have a call scheduled with the designer this week. After that, they will get structural engineer drawings and at that point will come to the Board for final approval. It was noted that they will be seeking IDC approvals.

Landscape and Infrastructure Report:

Chelsea stated that a new tree has been planted in the Creek Club parking lot to mitigate the tree that was removed in the Scramble playground.

The Charleston Tree Company has completed the pruning of the right of way trees.

Terminix has begun their monthly spraying at the common areas for mosquitoes. This includes all of the playgrounds, Eastlake Athletic Field, and the Amphitheater.

The committee continues to work with The Greenery on reducing the reliance on gas equipment, which is a long-term goal. Our landscapers have tested non-fossil fuel equipment and currently, they do not have the capacity to satisfy the needs for a community our size. The committee will continue to keep this topic alive and will formally revisit our non-fossil fuel goals in advance of reviewing the landscaping contract.

Julie asked if the blowing of the Scramble could be added to The Greenery's list.

IDC Liaison Report:

No formal report.

Covenants Report:

Lon expressed that the covenants team continues to make progress on properties that are not in compliance. At this time, we are actively notifying 16 properties that are in violation.

The committee met last week and discussed the verbiage for the basketball and play equipment guidelines. The IDC will be discussing further at the May 2nd meeting where the covenants committee suggestions will be shared.

Lastly, Lon shared the 3 stages of letters that are sent to homeowners when they are notified of non-compliance.

Lon made a motion to approve the fining of 2 properties that were discussed during executive session. Chelsea seconded. All in favor. Motion passed unanimously.

Communications Committee:

Michael first reported that the Eco Group is requesting $150 from the Assembly be granted to them for their inclusion on the community website.

Michael made a motion to approve granting $150 to the Eco Group to be integrated to the community website. Bob Seconded. All in favor. Motion passed unanimously.

Antonia Fokas will be taking over as the I'On Trust Executive Director and requested that Ravenel's EIN number be sent in order to move forward with SMS texting.

Michael made a motion to approve the I'On Trust having access to the Assembly's contact list for opting in for SMS texting. Bob Seconded. All in favor. Motion passed unanimously.

Bob asked if a blurb about alligators could be included in the next newsletter. A no dumping along the marsh trail reminder was also asked to be included. Mary will ask the newsletter editor to leave space for this in the June edition.

Secretary: No Report

Other Business:

There being no further business to come before the Board of Trustees, the meeting adjourned at 7:12pm. The next meeting will be on May 15, 2023 at 6:00PM and will be held at 159 Civitas Street.

Respectfully submitted by_____
Michael Spalding, Board Secretary