

**Minutes of the  
Walnut Grove Homes Association, Inc.  
April 2023 Board Meeting By Zoom  
April 3, 2023 - 6:30 p.m.**

**Attendees:** Liz Fenster, Charlie Morgan, Nick Brown, Hayden McCann, Laurie Howard, Molly Hyant, Doug Hyant, Danielle Bashirullah, and Kim Grimmer Excused: Eileen Goode. Also in attendance was Walnut Grove homeowner Todd Chojnowski.  
Ms. Fenster called the meeting to order at 6:33 p.m.

**February 2023 Board Meeting Minutes:**

Mr. Brown moved to approve the February 2023 Board Meeting Minutes. Ms. Howard and Mr. Hyant seconded the motion. The motion passed on a vote of 8 to 0.

Ms. Fenster moved to the agenda for the meeting circulated to the Board by email on April 1 and 3. This agenda is annexed as Exhibit 1 hereto.

**New Business**

- **Tax Assessment of WGHA Common Areas by City of Madison.** Mr. Grimmer sent an email to the City of Assessor once again laying out why the common areas of Walnut Grove have no monetary value as potentially saleable lots. (See annexed Agenda, Appendix A.) We have not received a response to this email yet, but Ms. Fenster and Mr. Grimmer will shortly follow up.
- **Phishing Efforts.** Ms. Fenster warned that phishing efforts directed to Board members continue via emails purportedly sent by Ms. Fenster and Mr. Hyant. Examples of these are found in Appendix B to the annexed Agenda.
- **Treasurer's report.** Mr. Brown provided the Board with a "Dues tracker" graph (See attached Agenda, Appendix C) that shows that 45 days into the dues collection effort the Association has received dues from some 223 households out of the 314 total in the Association. Dues received hereafter will be bearing late fees. Mr. Brown is having to follow up with a few homeowners whose checks were improperly drafted. Second notices have not yet gone out, but will be sent shortly, and indicate that late fees are now due. All bills we have received have been currently paid, but Eco has not yet cashed our check for tree removal and trimming as yet. Ms. Fenster indicated she had received an email from Eco acknowledging receipt of our check. Mr. Brown sees expenses being within the line items budgeted for them so far. There may be sums budgeted for legal expenses that can be shifted to other areas as the year wears on. There was a brief discussion about shifting from e-billing on some accounts to paper billing because of past problems having passwords transferred to new treasurers. It was decided that Mr. brown would shift back to paper-billing for now, and that any future

treasurers will terminate e-billing before their term of office ends so that the new treasure can make up his or her own mind on using e-billing. Mr. Brown plans to open a CD account with Summit in the next few days to hold part of the Legacy Fund.

- **Greenways Report.** Ms. McCann provide the Board with a written report that is attached to the Agenda below as Appendix D. She expressed her gratification to the homeowners that subscribed to make donations in support of the grant of native perennial plants by the UW Land and Water Resources Department. She will get off thank you notes to the homeowners that contributed. These plants will primarily be planted in Greenway C, the greenway most suited for them. The best bid received for the stripping, prep and repainting of the light post in the Greenways was from Thrift Painting and they are willing to extend the bid, received last year, into this year. The bid is for \$2,637, and a budget issue arises as this repair work was budgeted at \$1,200. There was discussion about making up the difference using the legal fees budgeted line item, or going into the Legacy Fund for the difference. Mr. Brown suggested we see about getting Thrift to agree to do the work over two budget cycles. Mr. Chojnowski recommended that since the painting probably only had a serviceable lifespan of five years or so, the posts be broken into groups and put on a rotational painting schedule, and he would be happy to participate in planning for this. It was informally decided to table this decision until the June meeting of the Board. There was brief discussion of soliciting donations from members to offset the additional cost of the painting effort, but there wasn't support for that at this time. The tree removal by Eco went smoothly. There may still be firewood available from the treen taken down behind 402 Walnut Grove. Anything not removed will still be removed by Eco. All the Cherry wood near Oxwood was salvaged by homeowners.
- **ACC Rules Modifications.** Ms. Bashirullah took up the changes to the ACC Rules being proposed for Board approval by the ACC Committee. This matter was tabled at the February meeting. Only one issue was problematic when discussed in February, relating to how to handle requests for approval of repairing or replacing fences that were not three feet in height or less. Ms. Bashirullah pointed out the language in Appendix C to the ACC Rules and Procedures that was tabled at the last meeting. The discussion at this meeting centered on how to properly restrict repairs to existing fences and replacement of deteriorated fences to preserve the overall character of the neighborhood, which had originally been designed to have no fences greater than three feet in height, except around swimming pools. Ms. Bashirullah said that more and more fences are getting to the place of needing replacement. The issue was to require that any replacement fence be no taller than the existing fence, and be of a design and material acceptable to the ACC. Ms. Fenster's concern was that the language being proposed in the appendix requiring the replacement fence to be a fence that "matches the design and placement

of the original fence,” doesn’t allow for the replacement fence to be of an upgraded design and replacement approved by the ACC. Her example was a homeowner wishing to replace a chain-link fence where we are trying to discourage chain-link fences in favor of wooden ones. There was also discussion about requiring a replacement fence to have a similar sense of visual openness to the existing fence, e.g., precluding an existing wooden picket fence from being replaced by a “shadow box” fence. If we move away from requiring an existing fence to be replaced by an identical fence, to achieve, for instance, an upgrade in the fence in terms of construction material or openness, we introduce potential questions about the standards being applied by the ACC potentially varying from application to application. So the tension is between a clearly ascertainable standard to be followed by the ACC, and a desire to give the ACC the flexibility to approve a replacement fence that is more attractive and with more openness in design. Ms. Barhirullah also raised a question as to the Board’s ability to insist on a fence being kept in an acceptable condition. [Post-meeting note: The Amended Covenants give the Association the power to enforce standards of fence maintenance in Part D, Paragraph 9, subparagraph (c): *“Any such screening or fencing that currently exists and which was established consistent with the Original Covenants for the individual plat in which the Lot is situated cannot be expanded hereafter without Committee approval, but shall be maintained in a neat appearance consistent with the original installation.”* (Emphasis supplied).] After further discussion about having the ACC regulate the style of the replacement fence as well as its height, it was decided to modify the new language in Appendix C, section A-2 of the Acc Rules and Procedures to make it clear that Section A-2 is only addressing the height exemption to the three foot fence height limitation. The following language was proposed and based on it, a motion by Mr. Brown, seconded by Mr. Grimmer, was made by to approve the new changes to the ACC Rules and procedures attached hereto as Exhibit 2. Ms. McCann abstained and the motion otherwise passed unanimously.

- **Social Report.** Mr. Morgan reported on preparations for the Easter Egg Hunt on Saturday, April 9<sup>th</sup>. He is still looking for someone to volunteer to wear the bunny outfit. Ms. Fenster will send out a reminder email the week before the event.
- **Block Captain Report.** Ms. Howard has been reaching out to the block captains individually and hopes to have a social get-together with them as a group some time in the near future.

The meeting was adjourned at 7:59 p.m. The next meeting of the Board will be at 6:30 p.m. on Monday, June 5, 2023. This meeting may be in person. If by Zoom, Mr. Grimmer will send out a zoom invitation for the meeting well in advance.

Submitted by: Kim Grimmer, Secretary



## **WGHA Board Meeting AGENDA**

**Monday, April 3, 2023  
6:30 PM**

**Via Zoom  
([Link Here](#))**

- Approval of [February Meeting Minutes](#)
- Committee Reports
  - President
    - City Assessments of WGHA Common Areas
      - See, Appendix A, attached email to City Assessor.
    - Pfishing/Spam efforts. Board members and other continue to get emails purporting to be from Liz and Doug. Check to see that emails are from legitimate Ionis email system addresses. See, Appendix B, for examples of fraudulent emails.
  - Treasurer
    - Update on dues collection
      - See, Appendix C, “Dues Tracker” graph on status of collections by number of households, comparing 2023 with past two years.
  - Greenways
    - See, Appendix D, Greenway Co-chairs’ report
  - ACC Report
    - Oral report - Review for approval of new ACC Rules appendices tabled at February 2023 meeting.
      - Including new proposed rule on replacement fences
  - Social Committee oral report
    - Easter Egg Hunt
- Other New Business
- Other Old Business
- Set next Meeting Date for June: First Monday? June 5, 2023 at 6:30 pm
- Adjourn meeting

## Kim Grimmer

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**From:** Kim Grimmer  
**Sent:** Wednesday, March 15, 2023 9:20 AM  
**To:** MDrea@cityofmadison.com  
**Cc:** Nikki Conklin; president@walnutgrovemadison.org; MLukens@cityofmadison.com; SWest@cityofmadison.com  
**Subject:** City of Madison adding the Common Areas of Walnut Grove's eight subdivisions to the City's Tax Rolls  
**Attachments:** Shot of Neighborhood from Satellite.jpg; Map of Greenways.jpg; IMG\_0019.jpg

Dear Ms. Drea:

You've previously been communicating with Liz Fenster, the President of the Walnut Grove Homes Association, Inc., (WGHA) about the above-referenced issue (See, email thread below.) It has been several months since emails were exchanged, and we thought we would get the dialogue on this issue going once again in the hope that the City can reconsider its intended action to tax the Association's common areas this year and perhaps beyond. I am taking the liberty of copying folks who were on Liz's original email.

I am a retired attorney and the current secretary of the Association who was involved in the recent amendments to the Covenants governing our Association. The original covenants for the eight subdivisions comprising our Association areas were not altered with respect to the ownership, use and maintenance of the common areas. As Liz has described it to me, and your email below reinforces, condominium associations have a carve-out on taxation of common areas that isn't extended to homeowners' associations. I thought I would lay out some more detail on our common areas in an effort to have the City reconsider taxing them.

1. Our common areas are principally comprised of four greenways, varying in size, generally surrounded by single family residences (and in one case the Lutheran Church of the Living Christ on Gammon Road.) I've enclosed a photo taken off Google Earth to orient you to the greenways, as well as a map of the greenways from the WGHA website.
2. The greenways vary from densely wooded areas to open fields.
3. The infrastructure of the greenways are comprised of asphalt walking and biking paths electricity wiring and pathway pole lights.
4. In addition to the greenways, the Association's common areas are comprised of fourteen very small islands in the middle of cul-de-sac City of Madison streets, none of which would be developable.
5. Two of the four greenways are fairly narrow strips, not suitable to being converted into saleable lots.
6. The access rights-of-way to all four greenways off of existing city streets are, in my opinion, much too tight to install streets leading into them. Another reason why development of the greenways seems untenable.
7. The use of the common areas are deed-restricted by our covenants. The new Covenants passed overwhelmingly by our homeowners in 2021 carried forward almost word-for-word (if not precisely) language found in each of the eight original subdivision covenants. This is the language Liz referenced in her email to you dated October 10, 2022. Paragraph 42 of the new covenants reads:

"In the event that the Association fails to maintain the Common Areas of Walnut Grove, the City of Madison may take over the maintenance of such areas and assess against all the properties in Walnut Grove the pro rata share of such maintenance charges, which assessments shall be liens against the Lots so assessed. Such assessment shall be included on each City of Madison property tax bill for each such Lot assessed. If the Association votes to dissolve or otherwise terminate the corporate existence of the Association, the Common Areas of Walnut Grove, owned by the Association, shall be deeded to the City of Madison at no cost to the City of Madison, and all unexpended maintenance funds then in the control



of the Association shall be paid over to the City Treasure without restrictions, and all Lots in Walnut Grove shall be subject to assessment for maintenance of the lands so deeded back to the City of Madison as provided in the first two sentences of this paragraph.”

All our covenants and bylaws are available on our website, <http://www.wgha.org>.

8. Our original covenants precluded our ability to divest the Association of the restrictions set forth in the quoted language above, without express approval of the City of Madison.
9. Virtually our entire Association budget (this year set for some \$50,000) is spent trying to keep the common areas from being taken over by nature:
  - a. Annual mowing, weed control and fertilizing costs are substantial.
  - b. We are on a multi-year rotation for tree trimming, diseased or dying tree removal and stump grinding, planting of replacement trees, and removal of trees unexpectedly downed by storms.
  - c. The asphalt pathways are rapidly approaching the time for complete resurfacing. See, attached picture from last summer. We have been patching the worst sections currently. The projected cost for replacing the pathways in all four greenways approaches \$400,000 (2023 dollars). Our current association annual dues might let this amount be set aside over about fifty (50) years of accumulation. Realistically we will need to have a substantial special assessment on homeowners in the future dedicated to pathway repair. Any property tax burden, regardless of how minor the amount might seem, cuts into the funds available to the Association to maintain the greenways and islands.
10. Our greenways and pathways are open to be enjoyed as open nature areas by all citizens of Madison. I think they should be viewed like Cardinal Glen or Pocket Park, as land dedicated, perhaps *de facto*, to the well-being of Madison’s citizens generally as a condition of approval of the platting of new land. (In our case as part of the City’s approval of the SIP process for our eight subdivisions.)
11. Any development of the common areas would, I predict, lead to a net loss in the tax base the City enjoys in the lots in Walnut Grove.

As I see it, WGHA could not sell any of the common areas it was conveyed by the subdivision developers in the original eight plats. All eight plats are subject to the same language I quoted above. Nothing in any such sale to a third party, despite sales contract terms to the contrary, would obviate the ultimate obligation of the WGHA to (1) continue to pay for the maintenance of the common areas on an annual basis, (2) have the homeowners pay for the maintenance if performed by the city in the absence of performance by the HOA, or (3) deed the property to the City of Madison upon dissolution. Given that nothing the HOA could do would effectively terminate the reversionary interest the City has to the common area, and given that anyone who might arguably succeed to the title to the common area would be under a substantial obligation to either maintain the areas or pay the City to do so, including the costs of removing trees after a storm, I don’t think there can be a potential sale of the common areas. None of them are developable, and only stand to be a cost burden on the owner (whomever the owner may be.) As a Homeowners Association, we stand for the cost burden because we like the amenity of the greenways, including the wooded portions, and are willing to share those amenities with anyone who wants to come to our neighborhood from outside it and stroll or bike around.

We would once again ask that the common areas of WGHA be taken off the tax rolls of the City. Liz and I are happy to come downtown to meet and discuss this with you (or perhaps someone who might sponsor ordinance legislation granting relief to us). Alternatively we would love to walk the pathways out here with you over a Spring lunch hour sometime. That jaunt might take half an hour.

Thanks for slogging through this admittedly very long email. Hopefully we can touch base on this issue soon.

Sincerely, Kim Grimmer  
Treasurer, WHGA

608-259-6892  
7302 Whitacre Rd.

Madison, WI 53717

**From:** Walnut Grove Homes Association <[redacted]>  
**Sent:** Monday, October 10, 2022 2:29 PM  
**To:** Drea, Michelle <[redacted]>  
**Cc:** [redacted]; Lukens, Megan <[redacted]>; West, Scott <[redacted]>; Nikki Conklin <[redacted]>  
**Subject:** Re: Property Tax Exemption Question: WGHA

Hi Michelle,

Thank you for your research into this matter and your reply. I can confirm that my previous email contained all our known parcel numbers (14 circles and 4 greenways). I appreciate your attaching no value to them this year, which will allow us more time to work through this within our HOA.

I do have some additional questions I'd like to go through, some of which may involve questioning the current statutory language that exists.

1. You say, "As it stands, we are unable to obsolete the parcels as the common element statutory language exists only for condominiums" and this is because our parcels can technically be sold (whereas a condominium cannot). My question is, why can our parcels be sold and not a condominiums? I am uncertain who we could sell to, who would buy them, or what they would be zoned for. For instance, the small green space parcel in the center of each circle seems like it could only be sold back to the City, as no property structure could be placed on it. I question why the statute is written in this way, and if zoning would be taken into account.

2. On the note of sale, our covenants actually include a provision (Part F section 42) that states if we fail to maintain the Common Areas of Walnut Grove (these 18 parcels), the City of Madison may take over the maintenance of such areas and assess against the properties (in the form of a tax bill). If the failure to maintain occurs or our neighborhood association dissolves, the Common Areas will be deeded to the City of Madison at no cost to the City, and the Association will turn over all unexpended maintenance funds to the City. This provision was in our original covenants which were authenticated in 1974. This provision seems to counter the idea of our parcels being able to be sold.

I know we have time to work through this, but I'd like to keep the conversation going in regard to these questions. I've also included Alder Conklin on this note so she has awareness to what we are discussing and working through.



Best,

Liz Fenster

President, WGHA

On Thu, Sep 29, 2022 at 3:29 PM Drea, Michelle <[Michelle.Drea@cityofmadison.com](mailto:Michelle.Drea@cityofmadison.com)> wrote:

Hello Liz. Thank you for checking in. We have undergone an internal review and consulted with our City Attorney staff in researching this issue. As it stands, we are unable to obsolete the parcels as the common element statutory language exists only for condominiums. A salient difference between an HOA and condominiums is that the common elements, defined in the condominium statute, cannot be sold. Whereas, the parcels below can be sold.

I appreciate your research and input into our process. While we cannot obsolete the parcels, we will place no value on them this year. So, you will not receive tax bills. However, we will have to place a value on them next year and you will be able to object through the Board of Assessors/Review process. Can you confirm that the email below includes all of the impacted parcel numbers?

Thank you and take care.



Michelle Drea, Esq.

(she/her)


City Assessor - Office of the City Assessor

City County Building, Room 201


210 Martin Luther King, Jr. Blvd.

Kim



Liz Fenster <p2021061222@virginmedia.com>

10/20/2022 11:50 AM 

To secretary@walnutgrovemadison.org

Reply Reply all Forward Delete Add to Safe Senders Add to Blocked Senders 

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 1 attachment  Download

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Hi Kim,

I need a few minutes of your time to handle an urgent request. I'd appreciate it if you could acknowledge this after you've received it so that I can provide you with specific guidance on how to proceed.


Kind Regards,  
Liz

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Feedback

## Request


**Liz Fenster** <rb6960p@gmail.com>

10/7/2022 8:52 AM 

To secretary@walnutgrovemadison.org

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 1 attachment ▸ [Download](#)

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Kim,

Are you free at the moment pls? I'm occupied today, will be needing your assistance.

I can't make or receive calls at the moment.

Best Regards,

Liz Fenster

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**Kim Grimmer**

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**From:** Liz Fenster <swe18666@netzero.net>  
**Sent:** Monday, November 7, 2022 9:18 AM  
**To:** secretary@walnutgrovemadison.org  
**Subject:** Quick Request

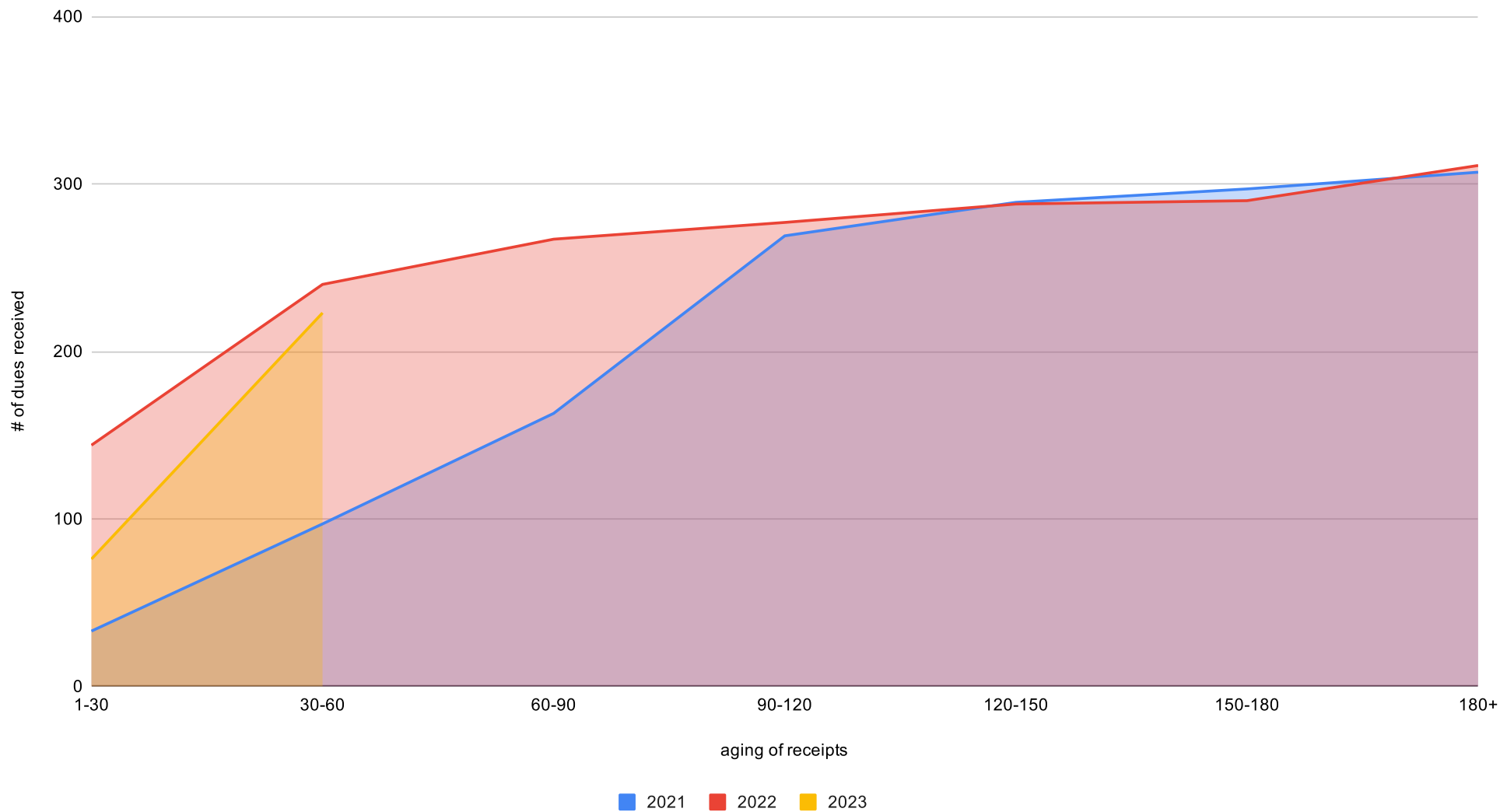
Hello Kim,

If you are available right now, I'd like you to send out a wire transfer regarding the administrative expense which is due for payment.

Let me know so I can send you the Vendor details for payment.

Best Regards,  
Liz Fenster  
President

## 2021, 2022, & 2023 Dues Receipt Timing



## Greenways Report

4/3/23

On 3/15 ECO Tree Company completed planned work to remove 6 trees in 4 Greenway locations. Additionally, a fractured branch was removed from the parent tree on Greenway B. 4 stumps will be ground after frost is no longer present. Two of the removed trees stumps are in wooded locations and will be left for nature to attend. Cherry firewood which was left near the Oxwood access pathway to Greenway D has been claimed.

2023 Tree pruning will begin on Greenway A and continue into Greenway B.

These two projects will require \$10,400 of the \$15,000 allotted for Woodland Management. It is projected that if by early fall there is no unplanned weather related tree damage the remaining funds may be directed to recommended cableing of an ash tree on Greenway B and opening the tree canopy over Greenway D.

Walnut Grove Greenways applied for and received a grant of native perennial plants from the UW Land and Water Resources Department. 100 plants were requested and granted. A system is now in place by which those who receive grants are to offset the cost by seeking sponsors to donate funds sufficient to cover the cost which is set at \$2.75 per plant. On March 17<sup>th</sup> an email describing this project, it's goal and cost involved was circulated to Walnut Grove. Within roughly 2 hours the quota had been met. (112 plants funded) Greenways co-chair subsequently received emails from 5 additional owners who wished to support the project after donations were halted due to having funded the number of plants contained in the grant. The native perennial plants will be received in late May.

The first Greenways Meeting of the season is planned for May 9<sup>th</sup> at Walnut Grove Park. The initial Volunteer Workday will follow on Saturday May 13<sup>th</sup>. See Newsletter for details,

# Summary of Changes to ACC Guidelines for 2023

## Appendix A: Rules for Residences, Additions, Exterior Modifications.- *No Change*

- Version from 2021 remains in effect

## Appendix B: Rules for Decks, Porches & Patios.

- Additions and clarifications to Patios (Section C)
  - Added “(proper pitch/slope)” to the following sentence:
    - A drainage plan (**proper pitch/slope**) should be included whenever a non-permeable surface, such as concrete, will be used
  - Add Lighting information (6<sup>th</sup> point to Section C) and reference City of Madison ordinance
    - **6) Lighting.** All exterior lighting on patios, decks, sport courts, play structures, etc. must comply with the City of Madison (Municipal code referenced below).

[https://library.municode.com/wi/madison/codes/code\\_of\\_ordinances?nodeId=COORMAWIVOIICH20--31\\_CH29BUCO\\_REDW\\_29.36OULI](https://library.municode.com/wi/madison/codes/code_of_ordinances?nodeId=COORMAWIVOIICH20--31_CH29BUCO_REDW_29.36OULI)

## Appendix C: Rules for Fences, Privacy Screens Pools, and Landscaping.

- Clarification to Fences Criteria for a Height Exemption (Section A2)
  - Remove “or replace” from the following sentence. Add statement to define replacement of fence as matching or reducing existing height:
    - b. The Owner is seeking to repair **or replace** an existing Fence that was approved by the original developer or ACC under prior versions of the Covenants or ACC Guidelines.
    - **In the event that the entire fence must be replaced, the exemption for repair will only apply to a fence that matches or reduces height and area of the previous fence.**
- Clarification to Privacy Screen Criteria (Section B)
  - Add Length requirement (4<sup>th</sup> point to Section B)
    - **4) Length.** No Privacy Screen shall exceed 3 segments or a total of 18 linear feet.
- Clarification of Placement information (Section B5)
  - Add the following statement:
    - **Final placement of a privacy screen will be subject to the design plan and will account for other garden structures and planting as proposed:**
- Clarification to Swimming Pools (Section D)
  - Add the following statement:
    - **Above ground pools would not be approved by the ACC.**
- Clarification and modification to Landscaping (Section E)



- Change wording to allow for the use of decorative materials such as rock or mulch, in addition to grass (Section E1- Natural Lawns or Prairies.)
  - Change from: “ACC shall not grant permission for a natural or prairie lawn based on the specification in the Covenants requiring a lawn or cultivated cover crop.” To
    - Natural and prairie style lawns are not allowed and will not be approved by the ACC. Areas may be intentionally landscaped and covered with mulch and/or decorative rock without approval by the ACC.
- Add information about Outdoor Lighting (Section E5)
  - **Outdoor Lighting.** Outdoor lighting may be used to illuminate the home, garage, or areas of the residential lot but should not be of such an intensity to cause discomfort or annoyance to adjacent homes. Please refer to the City of Madison municipal code for specific details related to outdoor lighting.  
[https://library.municode.com/wi/madison/codes/code\\_of\\_ordinances?nodeId=COORMAWIVOIICH20--31\\_CH29BUCO\\_REDW\\_29.36OULI](https://library.municode.com/wi/madison/codes/code_of_ordinances?nodeId=COORMAWIVOIICH20--31_CH29BUCO_REDW_29.36OULI)
- Add information about Compost Bins (Section E7) since this was not addressed in previous version
  - **Compost Bins.** A compost bin is defined as an outdoor bin (permanent or temporary) used to collect and compost organic materials such as food scraps, leaves, grass clippings, are allowed. The ACC will not approve open pit composting. Additionally, all compost piles or bins must follow City of Madison Ordinance 7.361-Composting.  
[https://library.municode.com/wi/madison/codes/code\\_of\\_ordinances?nodeId=COORMAWIVOICH1--10\\_CH7PUHE\\_7.361CO](https://library.municode.com/wi/madison/codes/code_of_ordinances?nodeId=COORMAWIVOICH1--10_CH7PUHE_7.361CO)
- Add information to Sports Courts & Play Structures (Section 11)
  - Add following statement to Materials sections about lighting.
    - Any lighting to illuminate play structure or sports court must comply with Outdoor Lighting requirements above.

#### **Appendix D: Rules for Outbuildings and Fixtures.**

- Modify “Solar Panels & Satellite Dishes” section to include other peripheral devices that may come along with changing technologies (e.g., wind turbines).
  - Change title and verbiage throughout section to include **Solar Panels, Satellite Dishes, and other Peripherals.**

#### **Application Form**

- Added Page numbers (i.e., **page 1 of 2** and **page 2 of 2**) to the two-page form
- Tweaked formatting (e.g., spacing and line length)

- Added “of Madison” to reference to City rules (“...City of Madison”)