I. Call to Order/Establish Quorum

The regular meeting of the Memorial Super Neighborhood 16 (Memorial SN) was called to order at 6:35 p.m. on December 14, 2015 at Memorial Drive United Methodist Church – The Gate by Memorial SN Council President, Greg Sergesketter. Ben Crocker, Communications Secretary, confirmed that a quorum was present with 23 out of the 27 members represented.

In Attendance:

President: Greg Sergesketter
Communications Secretary: Ben Crocker
Treasurer: Susan Thompson
Recording Secretary: Jackie Williford

II. Law Enforcement Update – Constable Precinct Five (Sergeant Janice Grizzaffi)

<table>
<thead>
<tr>
<th>Crime Type</th>
<th>10/21/15-11/19/15</th>
<th>11/15/15-12/14/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murder</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Sexual Assault</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Robbery</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Aggravated Assault</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td><strong>Violent Crime</strong></td>
<td><strong>10</strong></td>
<td><strong>4</strong></td>
</tr>
<tr>
<td>Burglary Habitation</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Burglary Building</td>
<td>18</td>
<td>0</td>
</tr>
<tr>
<td>BMV</td>
<td>92</td>
<td>0</td>
</tr>
<tr>
<td>Theft</td>
<td>106</td>
<td>49</td>
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<tr>
<td>Auto Theft</td>
<td>14</td>
<td>1</td>
</tr>
<tr>
<td><strong>Non Violent Crime</strong></td>
<td><strong>238</strong></td>
<td><strong>238</strong></td>
</tr>
<tr>
<td><strong>Part I Crime Total</strong></td>
<td><strong>248</strong></td>
<td><strong>248</strong></td>
</tr>
</tbody>
</table>

30-Day Crime Comparison
Call the non-emergency HPD number if you need a police officer at your home at 713-884-3131 or Harris County Constable at 281-463-6666 (dispatch).

Make sure you are locking your vehicles, and do not leave valuables in your vehicle because it only tempts a potential thief. Also, you can request an officer come and complete a home security inspection; this will provide you with an insurance deduction as long as your insurance provider is participating.

With the holiday season coming, do not leave gifts visible in your vehicle. If you will be out of town during the holidays, please contact the precinct through their website or call them to complete the vacation watch form.

Watch your surroundings when heading home; make sure you aren’t being followed. If you feel that you are being followed, call either HPD or Harris County Constable for help.

The Houston Police Department is hosting PIP Meetings every 3rd Thursday at 7:00pm at the Westside station at 3203 South Dairy Ashford. These meetings will have guest speakers, refreshments, and statistic/monthly information.

III. **Houston City Council Update**

District G – Oliver Pennington

In appreciation of his service, an award was presented to Council Member Oliver Pennington.

CIP Meetings will be held early next year, February/March and there will be a community engagement meeting for residents to provide input.
1. Memorial Drive Reconstruction (N-798) Update:

- Last Wednesday, December 9, Houston City Council Approved Agenda Item #71, an Ordinance appropriating $20,787,611.00 out of the Street & Traffic Control and Storm Drainage DDSRF and $5,566,081.00 out of Water & Sewer System Consolidated Construction Fund and awarding the construction contract to Oscar Renda Contracting, Inc. for the Memorial Drive Paving and Drainage Improvements project from N. Kirkwood Rd. to N. Eldridge Parkway.
- This project was approved by the Texas Transportation Commission in the 2013-2016 Transportation Improvement Program (TIP). The State of Texas will refund the City 80% of the construction costs up to a maximum of $12,647,308.00, which will be reimbursed through monthly billings as costs are incurred.
- This project consists of the construction of:
  - Approximately 16,600 linear feet of roadway to major thoroughfare standards. The proposed project includes reconstruction of a four-lane divided roadway consisting of approximately 89,864 square yards of 10-inch reinforced concrete pavements with curbs and gutters,
  - Approximately 5,000 linear feet of 24 to 84-inch diameter storm sewer pipe,
  - Approximately 8,725 linear feet of 4 to 24-inch diameter water line,
  - Approximately 9,400 linear feet of 6 to 30-inch diameter sanitary sewer line, including all appurtenances,
  - The project also includes installation of seven new traffic signal systems along Memorial Drive,
  - Construction of wheelchair ramps, driveways, sidewalks, and street lighting, and
  - The replacement of an existing bridge at Turkey Creek with a triple 10-foot by 10-foot bridge-rated box culvert structure.
- The Contract duration for this project is 860 calendar days. Construction should begin in the next 60-90 days. CM Pennington has requested that Public Works & Engineering hold another public meeting prior to the beginning of construction to provide an overview of the project, including an anticipated timeline, to answer questions from area residents, business owners and school administration officials, and to provide contact information for those available to answer additional questions or receive complaints or requests regarding the construction project.
- The total cost of this project is $39,001,000.00, to be appropriated as follows:
  - Bid Amount: $32,720,726.00
  - Contingencies: $1,636,100.00
  - Engineering and Testing Services: $625,000.00
  - CIP Cost Recovery: $1,309,174.00
Construction Management Fee: $2,710,000.00

- **Sources of Funds:**
  - $12,647,308.00 from Fund No. 5430 - Federal State Local - PWE Pass Thru DDSR
  - $20,787,611.00 from Fund No. 4042 - Street & Traffic Control and Storm Drainage DDSRF
  - $5,566,081.00 from Fund No. 8500 - Water and Sewer System Consolidated Construction Fund

- Private utility relocation especially for AT&T is ongoing. AT&T’s relocation work will also occur in conjunction with the Memorial construction phasing.
- CM Pennington has requested another public meeting before construction begins and will give notice once it is scheduled; he really want our help in driving attendance and e-blasting out and hosting on our websites information like FAQs.

2. **Kirkwood Panel Replacement:**
   - A number of panels have been/are being replaced on Kirkwood between Memorial and Buffalo Bayou
   - If a roadway will not be reconstructed in the next 5-7 years, it is a candidate for concrete panel replacement; Kirkwood from Buffalo Bayou to Memorial is not on the 5+5 so presumably will not be reconstructed in the next 10 years
   - A number of things actually going on:
     - Concrete panel replacement
     - New ADA compliant wheelchair ramps
     - Inlets being reconstructed
     - Sanitary sewer manhole being adjusted to grade
     - Control joints between panels being repaired/replaced
     - Spalled concrete at existing manhole covers repaired
     - Bridge expansion joints being repaired
     - Bridge approach slabs replaced

3. **Reporting Matters to 3-1-1:**
   - Email: 311@houstontx.gov
   - Phone: 713-837-0311 (or 3-1-1)
   - Smartphone: download the mobile app from the site above (or from the Apple App site or the Google Play site) the and use it to report matters directly to the City of Houston; this allows you to attach a picture of the issue which help the city decide what resources are needed to fix the issue and allows you to report an issue when you do not know the exact address (it uses GPS coordinates)
   - Experience is that about 75-90% of all issues reported to 311 get fixed to the satisfaction of constituents; the others may require intervention by my office; we therefore ask that you need your SR# (service request number) handy, as well as the estimate you receive from the City as to how long it will take the remedy the situation; if that deadline comes without the requested work, please contact my office with the SR# and we will do our best to get it solved.

4. **Similar Situation with PWE CIP Projects:**
   - You see flags, barrels, or other sign of construction activity and you want to know what is going on
   - You want to know the details of a construction project
5. **New Council Member:**
Council Member Elect Greg Travis will take over the District G office on January 4. His contact information will stay the same as our current information:
832-393-3007 (phone)
832-395-9571 (fax)
Districtg@houstontx.gov (email)

IV. **Treasurers Report – Susan Thompson**
Susan Thompson, Memorial SN Treasurer, reported that Memorial SN has a bank balance of $1,887.24 as of the end of November.

V. **HOA Board Duties and Liabilities – CAI with Chris Archambault, Daughtry & Jordan, P.C.**
CAI (Community Associations Institute) is a gateway for HOA resources; they offer classes and information for board members, management companies and residents.

As a Board Member, you must be aware of the rules that govern you and make sure that you are following the correct procedures and governing documents. It’s easy to conduct business without following all procedures, but when problems arise, that is the quickest way to get a Board into trouble.

Depending on your property type, certain statutes/legislations apply to your HOA. Meet with your HOA attorney to know exactly what does and doesn’t apply to your association.

As a Board Member, you have a fiduciary responsibility to your community. Remember to be open, fair and transparent to your residents and when making decisions. It is best to look to the future when you make decisions to avoid conflicts or lawsuits in the future and if you’re unsure about a decision, it is best to err on the side of safety.

In addition to having a fiduciary responsibility, a Board Member also has the following duties: Duty of Obedience (power comes from Certificate of Formation), Duty of Loyalty and Duty of Due Care. To make sure you know your powers, read your governing documents (Plat, By-Laws, Certificate of Formation and CC&Rs) and if you have any questions or need clarification, ask your HOA attorney.

Safe Harbor for Directors: To protect yourself from liability when making decisions, it’s best to do your due diligence. For example, if a contract expires, make sure the board is collecting enough bids. Only taking one bid could lead to lawsuits against the board.

As a Board Member, one of the most important things to have is the Director’s & Officer’s (“D&O”) Liability Insurance. If your Association doesn’t have it, get it right away. It’ll defend you if lawsuits arise; however there are possible exclusions such libel or slander. As a Board Member, you represent the community so be careful as to what you say because even if you say something over coffee or at the mailbox in the capacity of a resident, other residents might take what you say as the board’s opinion. Act in good faith and follow the “Reasonable Man” standard (would a reasonable person make that decision), which is used by the courts often.
Most HOAs are subject to the same laws as corporations. Make sure to have your policies in place. Be transparent and disclose all decisions and actions that were made including a brief summary of what was discussed and if any actions were taken during Executive Session. In addition, if you have a meeting, you must have minutes and include any and all actions. Minutes are the first thing that will be asked for in lawsuits and it’s how you protect yourself. And in Texas, you can’t prevent a resident from recording a meeting.

A good suggestion is to manage expectations; a successful board means happy members. In addition, it is suggested to post governing documents on a website or similar tool for members and residents to access easily. Paper copies don’t have to necessarily be provided, but easy access is beneficial to all. Best to take an approach of just giving the information. Keep in mind that any governing document that isn’t recorded in the county isn’t enforceable per Texas law.

Open Board Meetings
Open to Members (Homeowner and Residents). To give actual notice, email only doesn’t always suffice; you would need to post on the website or a sign in a public place where all residents will be able to view 72 hours in advance of the meeting.

Anytime the board is giving or taking something, make sure you document everything in writing and copies of any certified letter that was sent. This way, if the board ends up in court, they are protected.

*** Slides are posted at the end of the minutes

VI. Mayor’s Citizen’s Assistance Office
Rhonda Sauter with the Department of Neighborhoods, Citizens Assistance Office, is available to assist with neighborhood matters.

No update on SNAPs. It will depend on the next administration if the SNAPs program will continue.

If issues are not being resolved, she can be contacted to provide assistance. Her contact information is on the home page of Memorial SN’s website.
VII. Office of Texas Representative Jim Murphy

Deanna Harrington – District Director

Still accepting nominations for the Teen Leadership Summit on February 20th. Panelists will include Former Houston Mayor Bill White, UH President Dr. Renu Khator, former Texas Secretary of State George Strake and others. The summit will include major topics such as Business, Politics, Media and Personal Leadership.

A flyer can be found on the Memorial SN website at: http://www.memoriaalsn.org/News/repmurphyhostswesthoustonteensummit

Teen Nomination Link: https://docs.google.com/forms/d/1Pc-ZYtCNCJXhsaZm0FLpaGcJ6hqdvxicA8T69yb8hRg/viewform?c=0&w=1

VIII. President’s Report – Greg Sergesketter

Richard Long of the US Army Corps of Engineers will be presenting at the January 2016 meeting about the Addicks and Barkers Dams construction.

The dates for the 2016 MSN Meeting are:

January 25th
February 22nd
March 21st
April 25th
May 23rd
June 27th
July – No Meeting
August 22nd
September 26th
October 24th
November 21st
December 19th

IX. Committee Reports

Infrastructure Committee – Rob Benz and Tom Dodson

No current updates on the TIRZ 17 Memorial Drive project, however they are in discussion with the City of Bunker Hill Village of possibly extending the project to the Gessner and Memorial intersection. The project though is still in a design phase until decisions and agreements have been decided on.

If you would like to be a part of the committees, please contact the chair for that committee.

X. Adjourn

Greg Sergesketter adjourned the meeting at 8:06 P.M. The next general meeting will be 6:30-8:00 p.m. on January 25, 2016 at Memorial Drive United Methodist Church – The Gate at the Connection Center.
Attendance (23 members out of 27):

1. Ashford Forest Civic Club
2. Autumn Oaks
3. Barker's Landing HOA
4. Brittwood HOA (absent)
5. Ethan's Glen
6. Fleetwood
7. Fonn Villas
8. Frostwood Community Imp Assn
9. Memorial Bend Civic Assn
10. Memorial Club Townhouses (absent)
11. Memorial Drive Acres
12. Memorial Thicket
13. Memorial Way
14. Non-HOA Residential
15. Non-Profit
16. Nottingham IV
17. Nottingham Civic Association (absent)
18. Nottingham Forest Civic Club
19. Nottingham Forest HOA (NF8)
20. Somerset Place Assn
21. Thornwood
22. West Bayou Oaks
23. Westchester Owners Committee
24. Westchester Villas
25. Winding Brook Acres
26. Woods On Memorial (absent)
27. Yorkshire Civic Assn
OVERVIEW

Board Duties & Liabilities

Governing Documents & Records

Members’ Duties

This PowerPoint presentation is meant for demonstrative and illustrative purposes only and is not meant as a reference tool which can be taken out of context.
BOARD OF DIRECTORS
Duties & Liabilities

Fulfill their fiduciary duties – do what they reasonably believe to be in the best interests of the community.

Exercise sound business judgment.

Balance the needs & obligations of the community as a whole with those of individual homeowners.

Understand the Association's Governing Documents & become educated as to federal, state & local laws.

Establish committees & use methods to obtain & encourage input from residents.

Conduct open, fair and well-publicized elections.

Welcome & educate new members.
Encourage events that foster neighborliness and a sense of community.

Conduct business in a transparent manner.

Allow homeowners access to appropriate community records.

Collect all monies due from owners.

Devise reasonable arrangements to facilitate owners to meet their financial obligations to the community.

Provide appeal process affecting financial responsibilities or property rights.

Initiate foreclosure proceedings only as a measure of last resort.

Make covenants, conditions & restrictions as understandable as possible.

Provide complete and timely disclosure of personal and financial conflicts of interest related to the actions of the board.

Duties Owed by Board Members

**Duty of Obedience** - forbids director from engaging in acts that are outside scope of corporation’s power

**Duty of Loyalty** - director cannot allow his own personal interest to prevail over interests of corporation

**Duty of Due Care** - director must manage corporation’s affairs with diligence & prudence
HEIRARCHY OF ASSOCIATION’S GOVERNING DOCUMENTS

ASSOCIATION GOVERNANCE

Articles of Incorporation/Certificate of Formation

Bylaws

ASSOCIATION ENFORCEMENT

Plat

Declaration of Covenants, Conditions and Restrictions

ACC Guidelines, Board Policies; Rules and Regulations

Know Where to Look

Governing Documents

Federal Law
Fair Housing Act
ADA

State Law
Texas Property Code
Texas Business Organizations Code
Texas Transportation Code (private streets)

Ask For Help!
A written opinion from your attorney or CPA may protect you
SAFE HARBOR FOR DIRECTORS

- Tex. Business Organizations Code § 22.221
  - (a) A director shall discharge the director's duties, including duties as a committee member, in good faith, with ordinary care, and in a manner the director reasonably believes to be in the best interest of the corporation.
  - (b) A director is not liable to the corporation, a member, or another person for an action taken or not taken as a director if the director acted in compliance with this section. A person seeking to establish liability of a director must prove that the director did not act [as stated above]

Individual Liability for Directors?

- Indemnification – Articles, Bylaws or CCRs
  - A director may not be accountable for a violation of his duties if he relied in good faith upon the legal or financial expertise of an attorney or CPA
- Director’s & Officer’s (“D&O”) Liability Insurance (aka Community Association Policy) - Possible Exclusions:
  - Libel or slander
  - Bodily injury or property damage
  - Employment discrimination
  - Intentional acts of misconduct
  - Acting outside the scope of director’s role
POA is a Texas non-profit corporation.

A director is **not** a “trustee” but does have a fiduciary duty to the corporation.

A director must act **IN GOOD FAITH**, without allowing his/her personal interests to prevail over the interests of the corporation.

**“Reasonable Man” Standard**

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**CONTRACTS WITH BOARD MEMBERS**

*Property Code §209.0052*

POA may enter into contract with current board member (related person/company) **only** if:

1) bids on contract along with 2 other non-related bids, if reasonably available; and
2) is not given access to other bids; and
3) does not participate in any board discussion regarding contract; and
4) does not vote on award of contract.

Material facts regarding relationship or interest to contract must be disclosed to or known by POA Board. Board, in good faith & with ordinary care, authorizes contract by vote of majority of disinterested Board members.

POA Board certifies that all requirements have been satisfied by resolution approved by disinterested Board members.

**CAVEAT:** Incorporated POA also subject to BOC §22.230. Applies to contracts & transactions with directors, officers, or members, or entity where they are in management or have a financial interest. Big difference is director can participate and vote under BOC but not under the Property Code. Follow the Property Code procedures, not the BOC.
TREAT POA AS THE CORPORATION IT IS

Board sets policy; not individual Board members & then instruct staff to execute policy. Hands off!

A director may incur personal liability IF he or she micromanages staff, especially if those instructions contradict Governing Documents or Board votes.

Communicate decisions to staff after every meeting.

Be careful of social media – make & follow policy.

Rights & Responsibilities for Better Communities

Community Leaders Have the Right To:

Expect owners/non-owner residents to meet their financial obligations.

Expect residents to know & comply with rules & regulations & to stay informed.

Respectful and honest treatment from residents.

Conduct meetings in a positive and constructive atmosphere.

Receive support & constructive input from owners.

Personal privacy at home and during leisure time in the community.

Take advantage of educational opportunities related to their responsibilities.
DUTIES OWED BY MEMBERS

1. To pay assessments timely
2. To abide by the deed restrictions, ACC guidelines, Board policies, rules
3. To actively participate in POA affairs by volunteering for Committees & Board, by attending Board & Annual meetings, by voicing opinions to Board and to community giving only true facts with goal of vigorous debate not interference with POA property rights or contracts

OPEN BOARD MEETINGS
§209.0051(c)

All board meetings open to all members

Board allowed to adjourn to closed executive session to discuss:
- personnel;
- litigation, pending or threatened;
- contract negotiations;
- enforcement actions;
- confidential communications with POA attorney;
- matters involving privacy of individual owners; or
- matters requested to be confidential by the parties and with Board agreement.
IMPORTANT TAKE AWAYS FOR BOARDS

1. File your management certificate... now & keep updated.

2. File all Governing Documents including Board policies you want to enforce later.

3. Properly notice all Board meetings to your members & keep to that agenda.

4. Keep good minutes of all Board & Members’ meetings; actions only

5. Be transparent & act in best interest of your Association!

QUESTIONS?

• **Christopher J. Archambault**
  – Daughtry & Jordan, P.C.
  – 17044 El Camino Real
  – Houston, Texas 77058
  – (281) 480 – 6888

• **Community Associations Institute**
  – 9525 Katy Freeway, Suite 303
  – Houston, Texas 77024
  – (713) 784 -5462 / [www.caihouston.org](http://www.caihouston.org)