

**Pawnee Hills Community Association
Board of Directors Meeting
August 10, 2006**

Meeting was called to order at 7:05 p.m.

Board members present were Tina O'Bryan, Walt Day, Pam Schultz, Patty Sward and Susan Laessig

Motion was made to approve the agenda. Motion was seconded and passed.

Board: We are still working on June 8th and July 13th minutes, so they will be forthcoming.

Treasurer's Report:

Our current balances: Checking account is \$3,843.68, Savings account is \$17,597.67, and reserve account is \$9,710.74. CD #1 at the end of July was valued at \$5,000, CD #2 \$5,000, CD #3 \$5,000.

Motion was made to roll over the matured CD. Motion was seconded and passed unanimously.

Board: We received in the mail a Notice of Foreclosure on a property in Pawnee Hills at 35616 Cheyenne Trail.

Sandy: I have an invoice due on August 14th for payment from Pinnacle Insurance who is our Worker's Compensation carrier. So I need to know if we want to renew this?

Board: What was your amount on Pinnacle's bill?

It says here "renewal policy premium for September 1, 2006 through September 1, 2007." It is estimated at \$1,023. The remaining balance is \$1,023. Premiums are subject to change.

Board: Okay, so they are saying that the total amount for the year is \$1,023.

Sandy: Yes, but this is just an estimate. This year's coverage with Pinnacle, we paid \$911, we are looking at \$1,023 for next year.

Board: We did get an estimate from State Farm for a total of \$637.98 per year. Same coverage as Pinnacle. It is cheaper than Pinnacle because we have all of our other insurance with them.

Cynthia: Their factors are pretty close, I can tell you, because we gave State Farm the same information that we had given Pinnacle. It is just that they value things differently.

Board: We have four days to do something.

Sandy: We can save money by raising our deductible from \$1,000 to \$2,000.

Board: I make a motion to go with State Farm Workman's Compensation Insurance. Do I have a second? Second. Motion passed unanimously.

Board: Motion was made to raise our deductible from \$1,000 to \$2,000. Motion was seconded and unanimously passed.

Facilities Report – Cynthia and Darren

Board: Patty spoke with the Sheriff's department to see if they could patrol the clubhouse and the barn. They would have a Sheriff come by some time during the day.

Cynthia: We need to fix the coping stones at the pool. We are looking at getting a bid when we figure out what we are going to do with the rest of the pool. I figure it will be much easier to do it when we don't have water in it. I am hoping that when we close the pool, we can do the coping stones and any other pool repairs all at the same time.

Pam: What about the leak?

This week when I was taking care of the pool, I didn't fill it for three days and it barely was down. When I had it full, we would wash it out and it was like three or four inches but when I just left it, it stayed pretty much that level, so I don't think our leak is as bad as we think. I know we have a leak, but it is not as bad as it was. I am working on getting bids from our current pool company as well as from American Leak Detection.

Board: American Leak Detection. Cynthia had an appointment with them and didn't cancel on time, they wanted to charge us \$300 and some odd dollars and Cynthia talked to them and got it down to half the price, which was \$125 that Cynthia paid out of her pocket. I said absolutely not. That is a Pawnee Hills bill. She couldn't find the receipt. She has now found the receipt and will submit that receipt for reimbursement.

There was discussion regarding putting security bars on the clubhouse windows.

Stephen Gile: Maybe a motion detector light out there where it comes on when you walk up. If that doesn't work, go ahead and buy one of these little cameras, they are 50 or 60 bucks, record them and post their picture at the mailbox.

Board: What I am thinking is we have to determine how much money have we spent on vandalism in a year. If we have spent \$500 on vandalism in a year, is it worth it to put \$3,000 worth of stuff in? So that is what we need to really look at.

Sandy: We spent almost \$200 this year on vandalism.

Board: Maybe if we put more lights here at the clubhouse, it will help.

Board: We need to work on our lighting situation here at the clubhouse. When the wind blows, the light goes on, a bunny goes by, it goes on, and guess who gets to look at all the lights from over here? So, you will get the biggest fight from me about how much light we put over here.

Stephen: You can get \$50.00 motion lights, if you go up a little bit higher in price, you will be able to dial them in how you want them.

Board: Cynthia is doing an electrician's bid right now. We have to determine what lights we want to put up and where we want them to shine so that she can get a final bid.

Cynthia: I have some electricians now. I said the board is concerned about the lighting walking out to the parking lot because we have had complaints about that. They are concerned about the lighting out towards the pool. But we also are trying to get lighting at the pavilion.

Board: Homeowners entertain at night and there is no electricity out at the pavilion so they can't plug in even a radio.

Cynthia: Homeowners have said they would use it more if we would have electricity out there. We will also need to get the new motion detector lights on all the ones that are deteriorating.

Board: We are talking about putting a timer in at the pavilion. So the pavilion closes at 9:00 pm, same as the pool?

Cynthia: No. The pavilion time goes with the building. So the hours have been Sunday through Thursday and at 11:00 pm people have to be quiet. Now, Saturday and Sunday it would be 2:00 am. They can be in the building but nobody out screaming and yelling after 11:00 p.m.

Board: Okay, so basically, you just need direction from us to get a bid together from the electricians. So we will just walk around the clubhouse with Cynthia tonight and make our suggestions.

Cynthia, Chuck and Darren prioritized the list of open work order items and will be working to get those projects completed.

Board Business

Board: Pawnee Hills Community Association versus the Linda Lee brief in support of plaintiff motion for attorney's fees and costs. Plaintiff by and through its attorney states as follows, and I want to preface it by saying this is granted with the amendments by a District Court judge:

In June 2005, plaintiff, Pawnee Hills Community Association, brought an action against defendants to enforce the covenant prohibition of poultry within the Pawnee Hills community. A contested trial was held on this matter on April 25, 2006, and continued until May 2, 2006, at which time the trial was concluded. By order dated June 16, 2006, District Court found in favor of plaintiff. The court found that poultry was not permissible within Pawnee Hills Community Association and that the defendant knew that it was not permissible. The court found the poultry restriction in the protective covenants is clear and the covenant contains no provision allowing the Board to grant a waiver or change the poultry exclusion. Miss Lee never sought approval before purchasing her poultry, even though she knew about the provision prohibiting poultry. The court further ordered that all of Lee's poultry must be removed within four and a half months. Both statute and case law affirm that plaintiff is entitled its attorney's fees and costs in this matter. Colorado revised statute, it specifically provides that in any legal proceedings, enforced provision of this article or of the declaration bylaws, articles, or rules and regulations, the court shall award to the party prevailing on such claim, the prevailing party's reasonable collection costs and attorney's fees and cost's incurred in asserting or defending the claim. This statute applies to Pawnee Hills. Our courts have enforced this statute in cases in which the enforcement of covenants has been an issue and gave two case laws. Wherefore, plaintiff requests that the court award plaintiff its reasonable attorney fees and costs in this matter to be submitted by affidavit.

Cheryl Mulvihill, our attorney, is submitting our costs to the District Court judge and then he will then decide how much of our cost is granted. It could be all, it could be half, we don't know.

Pam: I thought that the law is "all" so I will be interested to see--

Board: We are hoping. We had thought when we received this that it was all, that we were going to get the whole thing and it is about \$4,500, a little over that right now.

Homeowner: It would be nice to get it all – it would send a message to these people.

Board: Absolutely.

Board: We could use the money.

Sandy: Do you need any documentation from me?

Board: Only the amounts needed for our newsletter.

Board: Okay. So then, I will read you-- this is the affidavit from Linda Lee, which was denied by Charles Pratt, our District Court judge here. Again, Pawnee Hills versus Linda Lee. Her statement is:

By order dated June 16, 2006, the District Court found in favor of the defendant. Plaintiffs were seeking immediate removal of defendant's chickens. The court awarded the defendant the right to maintain the

chickens until October 31, 2006. Colorado revised statute: If any person subject to the provisions of this article fails to comply with any of its provisions or in a provision of the declaration of bylaws, articles, or rules and regs, any person or class of persons adversely affected by the failure to comply may require reimbursement for collections, costs, and reasonable attorney's fees and costs incurred as a result of such failure to comply without the necessity of commencing a legal proceeding. For each claim, including but not limited to, counter claims, cross claims, and third party claims, and any legal proceeding to enforce the provisions of this article or declaration, bylaws, articles, or rules and regulations, the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorney's fees and cost incurred asserting or defending the claim.

In this spot, Linda Lee is basically saying I won the case so I should get the attorney's fees.

Board: (Linda Lee's statement to the court). Had defendant asked for permission to obtain poultry as the Haans did, permission would have been given. Defendant only acquired her chickens after it was clear the covenants had been abandoned not only by the Board but the homeowners also, not in compliance at the time and the Board's failure over the years to fully enforce the covenants. Document review of clubhouse records indicated that the Board had made both verbal and written exceptions to the covenants on numerous occasions. Therefore, defendant did not knowingly or willfully violate the covenants, as this seemed the norm at the time. Defendant has incurred approximately \$1200 in costs for fencing which can not be utilized elsewhere on the property. Defendant also incurred filing fees, copy fees, mailing fees, and fees for court transcripts. The defendant believes that this was filed in District Court versus Small Claims Court to inflate the fees involved and as a method of intimidation by the plaintiffs. The defendant believes that the court costs related to this case were inflated by the plaintiffs due to the following (see exhibit 3 published to all PHDA homeowners in June 2006 mailing by Board of Directors). The defendant filed the original response to the court on 07/07/2005, within the designated time allowed, and plaintiff's attorney filed a motion for default judgment without consideration that the defendants had complied with the court's request. She has \$248.32, see attached. The defendant appeared at the clubhouse on the date and time she was scheduled to by Board member Walt Day, and then was ordered to leave by another Board member, Pam Schultz. This resulted in the defendant filing a motion for dismissal based on the fact that they could not prepare their defense. Plaintiff's attorney filed an appeal on the motion to dismiss order which would not have been incurred if defendant had been allowed to review records as scheduled by the Board of Directors. The research for this case would have been less had the homeowner's records been kept in the manner they should have based upon HOA's bylaws. PHCA's bylaws/covenants do not require that homeowner be responsible for legal fees regarding covenant issues. Signed Linda Lee.

That whole thing was denied by Judge Pratt.

Board: As a side bar, I don't recall her ever requesting review time. I believe that was Holly Haan and she accompanied her that day.

Board: But she did a separate one I think.

Board: Not for that same time.

Board: Yes, they were scheduled one at a time.

Board: So, nevertheless, right now, our lawyer is submitting the affidavit regarding all of our costs to date, I think it was like \$200 more than what I had in our last newsletter.

Board: The declaratory judgment. I received two documents from David Rolfe, and I need to get copies of this to our attorney. Basically what happens now is he sends a letter out to all the community members saying if I don't hear back from you, you are in, if you want to opt out, then you sign it and return it back to me. And then we would have a meeting here at the clubhouse with all of the people who are interested in being here and part of this and then it would be explained and then we would know what our next step is on that. So that is where we are at with the declaratory judgment so far.

The only other thing I have is apparently our letter communications from the community, a letter dated August 8, 2006, to the Board of Directors from Robert Roland: Members of the Board, based upon the language and requirements of our covenants, article 6 restrictions, sections 2 and 3, concerning the bridal path, I hereby submit this letter as notification that I, as a member of the Association, am requesting the Board take whatever action is appropriate and necessary to require all laws to provide the access that is required. Our covenants refer to Elbert County requirements as per filing one and two and a plat map showing the bridal/utility easement for each lot. In most cases, this is a 15 feet set back at the rear or side of all properties, but in some cases, the requirement is 20 feet. Therefore, in adopting the exact requirements of the county as our covenants, it is the responsibility of the Association and the Board to enforce this covenant. I am enclosing a copy of the bridal map from the HOA's website showing in red all bridal paths in our community. In some cases, particularly the lots on Cheyenne Trail and Sioux Trail to the east, is required setback and bridal path access is not provided. Obviously, the recorded plot maps dictate where and how much easement is required, and therefore, the HOA bridal path map may not include all the required easements. However, in our community, clearly represented and held to be an equestrian community, these easements are critical to the intent and flavor of our community and in maintaining the property values of our properties. I am requesting that the Board follow protocol and the established procedures for addressing covenant violations to ensure that all lots not complying with these requirements correct the infraction, and provide the access required. While I believe that it is the legal responsibility of the Board to address all violations of this important covenant, this letter is specific to the following violation and total blockage of required easements behind and to the west of the following properties. Current known violations of article 6, section 3: 1040 Sioux Trail - requires access to easement at Pawnee Parkway, County Rd 5, and 15 foot easement behind property; 1100 Sioux Trail - no access behind property (15 foot requirement); 1142 Sioux Trail - no access behind property (15 foot requirement); 35733 Cheyenne Trail - no access behind property (15 foot requirement). These requirements are clearly indicated on the Elbert County plat maps, thus being a requirement of our covenants, article 6, sections 2 and 3, are currently in violation of those covenants as an equestrian community boasting a horse-friendly environment. These blatant violations threaten and diminish the value of our property and community. Please take appropriate action to enforce this important covenant. --Bob Roland.

Board: Okay, I think that we need to table this to our next month's meeting.

Board: The legal cost for Beireis regarding the Architectural Control Committee violation. He put up a chain link fence without approval. It was denied by ACC, we had to do a temporary restraining order to keep him from putting any additional fence up, and we will be going to court for this case on the 30th of August at 1:30 p.m. in Douglas County. So, did I get that clear enough, everybody?

Board: Yes.

Board: Does anybody have anything for open forum? Sandy?

Sandy: Another thing on the Beireis case, I actually did code that as a covenant enforcement because our covenants require ACC approval.

Board: Good point.

Board: Thank you for clarifying that. Absolutely. You are right our covenants do require ACC approval.

Board: Thank you. We needed that. Good clarification on that. Anything else we have to deal with tonight that anybody can think of?

Motion made to adjourn the meeting. Motion passed and meeting adjourned at 9:23 p.m.

Respectfully submitted - Walt Day, Secretary