

Pawnee Hills Community Association  
Board of Directors Meeting Minutes  
December 14, 2006

Board Members Present: Tina O'Bryan, Pam Schultz, Patty Sward, and Susan Laessig. Sandy Perry was present as Treasurer.

Meeting was called to order at 7:15 p.m.

Motion was made to approve the agenda. Pam Schultz had a few changes to the agenda by adding some policy and procedure change information. Motion was seconded with those changes, motion passed.

Tina: The October minutes I still need to review and then get them out to everybody. The November 14<sup>th</sup> minutes are done and I will e-mail those out to you guys for review.

Communications from community members: I don't have anything at this time.

Treasurer's Report:

Sandy: The bank balances: Checking account \$5,314.71, Savings account \$7,108.58, Reserve account \$11,955.96, Unpaid Dues total \$3,690.69, CD #1 \$5,107.91, CD #2 \$5,155.22, CD #3 \$5,055.78. Total Non-Transfer deposits to Checking \$6,795.39.

Bills were read by Sandy. Motion was made to approve the bills as read. Motion was seconded and unanimously passed.

Tina: Where are we at on the bookkeeping service bids?

Sandy: We've got those in. We had just one and we spoke with both of the prospective bidders last week. One in Elizabeth charges \$80/hour and I feel that this is a little bit high.

Patty: We really didn't get a lot of warm fuzzies that he could give us a coherent sense of what kind of time he expected to be putting into this and we didn't want that and we didn't have any real sense of what we would end up paying.

Sandy: Yeah, the second one charged roughly \$40/hour which is more in line with what we are currently paying and she does do homeowner's associations. I spoke to one of her clients used as a reference and they are totally in love with her. Says she is great. She does all of their--writes their checks for them, does all their invoicing, all of that type of thing and they are real pleased with her. We have met with her. She seemed very capable, very enthusiastic and willing to try. I don't think we are going to throw anything at her that she can't handle. She is in Parker and like I said, the southern part, fairly close.

Tina: Do we have a bid that we can look over for those of us who didn't get a chance to meet with them?

Sandy: No - It would be per hour.

Susan: It is a per hour and we have a worksheet of what she charges for her services. We had some discussion on fees and different things that--like we went into with her and she did have some comments and we told her that we were flexible and that we were open to suggestions.

Tina: Okay, is she going to put together a contract? Is she going to list all of her fees? Are we looking at--

Susan: Well, we thought that we needed to meet before we went any further. We didn't want to waste her time.

Tina: Well, we only have one person right now so I mean, I think that if you guys weren't real happy with the first one that if you have any information on the second one, that--

Susan: We do.

Tina: That Sandy can maybe scan and get out to the rest of us so if we have questions, we can--

Sandy: Just as an example for payroll, to do two employees: either weekly, biweekly, semi-monthly, or monthly payroll for two employees would be \$40 and currently we are paying \$275 for that which includes printing off some of the financials. So, I think she is pretty reasonable there. Her hourly fee is \$40/hr and we are currently paying \$38 so it is falling in line.

Tina: But we don't know quite yet how many hours she is going to charge us a month. You guys gave her information on what we do every month--

Susan: But it seemed like from when we talked with her that it is going to come in at least at what we are paying if not less because she seemed to have a way of streamlining what was being done.

Sandy: And also, I did speak to the homeowner's association that she takes care of the billing for and they said she does their invoicing and she also does all of their check writing, handles all of their bills, all of that. It is like a 50 unit area and the treasurer, when I talked to her, she said she thinks it is roughly about \$300 and so she is writing the checks so you can take that off. I don't think it is going to be triple that fee because we are tripling the number of units.

Patty: It might be the first month just until she gets up and running and that is basically what she said and probably the first month, possibly the second month will be somewhat higher hours, then after that because once it is in the system, I mean, she set that right up--

Tina: Okay, so, how about if you can just scan the information that you do have on them if that is possible and send it out or copy it or however you want to do it and get it to the rest of us. I mean, anything about her company that you have would be--

Walt: That looks like about 20 hours a month is what we have budgeted for.

Tina: I wanted to look at the salary to see if there is any--I wanted to look it over.

Patty: Sure, okay.

Tina: I mean, I might have a question or something regarding this new company--

Patty: That's not a problem, Tina.

Sandy: We probably need to act fairly quickly because I know that people are waiting for it--

Tina: Sure.

Sandy: And then also to get the transition over. I spoke to Susan Johnson this morning about the possibility of her doing the January invoices and she says it will take her just as long to do January invoices as it would the whole year because she sets up the whole year all at once.

Tina: Right.

Sandy: And so it's going to be probably basically the same thing with any type of a new bookkeeper so it would probably be to our benefit if we are going to go with this contract or this bidder that we do it sooner rather than later so that they can get their paperwork across and Susan can send this new person for the bookkeeping,

she can take Susan's current files, import them into her software so it is not like she is going to be doing a lot of retyping. But according to Susan, you only get partials. You get summaries rather than the actual detailed table and if she needs a detailed table, then Susan has to go through a little bit more of a loop to get that out but--

Pam: How much information is there to review? I mean, why don't we just take a few minutes and do it.

Tina: Oh, that's it?

Susan: That's it.

Tina: We don't have anything on her company or--?

Susan: We have the referral. She has been in business over 20 something years.

Sandy: I have a reference sheet.

Susan: They run a business out of their home, she and her husband. She has two other ladies that are employees. It seemed to be a real slick operation. It is just on Hilltop which is about maybe 10 miles equal distance to Susan.

Patty: And literally on my way to work.

Tina: What does she charge for the first and second letters to homeowners?

Susan: Well, that came up and she thought we were high.

Sandy: But so did the other gentleman that we spoke to also because--

Tina: But that's not answering my question.

Patty: She doesn't do it. They send it to a lawyer. She is willing to do that. She doesn't have a problem with it, it is just that the other Homeowner's Association made the choice that when it went to letter their lawyer handles it. She doesn't handle it.

They just made a different decision. So, she is willing to do it. When she looked at it, she said, "Gee, I'm thinking more in the \$10/\$15 range" would be her fees in there. What we suggested she do is go back and think it through and I said, "Look, right now we have got, could be 20 people on the list. Next month it could be 10, it could be 20 again. You need to think this through because there may be other costs involved." But if she was coming in at \$10 or \$15, nobody is going to cry.

Tina: Well, no but if she doesn't, then it goes straight to the lawyer. That is when they are going to cry.

Susan: She said she would do it.

Tina: Okay.

Patty: It's just that other--the reason she didn't have a price off the top of her head is because the other Homeowner's Association made a different choice than we did.

Tina: Okay. And has she filed liens before?

Sandy: The liens also go through the legal, the lawyer.

Tina: Okay, so we don't know.

Susan: But we had talked about filing the liens ourselves.

Patty: We could just mail them to--

Tina: Oh, God, no. The Board members do it?

Patty: Why not? We could just mail them to the county.

Tina: No, no, no. I don't want that responsibility.

Susan: We could just file them.

Tina: And if someone doesn't do it or if someone forgets to do it, that is a huge liability. And don't tell me that we are real good at that, guys, because we are all strapped for time.

Patty: Nobody is saying that. We are thinking about what you just said.

Tina: Okay.

So, I mean, and that's a point and she wasn't particularly interested in taking that up. So if we go with her that is a decision we--

Sandy: Well, I never really asked her specific--well, she told me that the liens are always handled by the lawyers. I never even asked her specifically, "Would you want to file the liens?"

Tina: And I'm okay--

Sandy: But do you want somebody for that much of a legal liability. Do you want a bookkeeper doing it?

Tina: Well, and that's--I mean--I know what Susan Johnson with ABC can do. I know that we have been very spoiled by that, okay? I know that. And I am fine if this bookkeeper chooses to send it right over to the attorney. I'm fine with that too. But I just--that was one of my questions, it is just, you know, how is that going to work?

Patty: I think she would be fine with filing the lien, but I think we probably should get clarification from her on that.

Tina: Because if she--if that's the way she wants to work, I am totally fine with that. We just need to know ahead of time that that is how the procedure is going to go. But for Board members to be responsible for filing liens--

Susan: I don't see a problem with this so I am not clear. I don't see--

Patty: And I know what Tina is saying because we all get--we all have lives, we all have private lives. This is all volunteers and--

Tina: There are deadlines that have to hit and the procedure that has to happen between a first letter and the second letter, the lien. The timing has to be exactly right.

Patty: And if you drop a third person in there, it can--

Tina: And if you misspell somebody's name.

Susan: I'm with you. I'm understanding.

Tina: So. Okay. I guess maybe all I need is just a couple questions answered as far as for me. Anybody else? I mean, I know you guys talked to her but--

Pam: If all three of them feel confident with her and we wouldn't have to sign a year's contract or anything, I am ready to move on that.

Tina: So we don't sign any contract whatsoever with them?

Patty: Well, I think we need to clarify that too.

Susan: I think we need to clarify that. We didn't go that far with her, I don't believe.

Tina: I mean, I would like to see some sort of contract with a 30 day out on either end. These are all the things that--just so that--so the contract states this is all the things that I am going to do for you. This is the hourly rate, so that we are both, when we sign the contract, we are both on the same page. So if there is any way that we can do that. I'm sure she has contracts with other Associations, that possibly maybe she can just--

Sandy: The one other company that I called earlier this week, I still didn't get to hear back from them. It was one that Susan recommended. They happen to be a property management company, not a bookkeeping firm. But then it dawned on me, property management route, if you are going to revisit that or something, perhaps these people can help but it sounds more like, you know, they want to sit down with the Board and, while you interview them, they interview you and see whether it is workable or not.

Tina: Well, I think I am fine with this if we can get something in writing. Because there might be something that they send us and we go, we forgot this and what about this and what about this. If we had something concrete we could work with, that would be wonderful.

Sandy: If she is charging us hourly, it would be just like Susan when we forget to do stuff, I mean, when we ask her to do extra stuff...

Tina: Right, but I want to know what she is going to do for us every month. With Susan Johnson, the contract states she will do this report, this, this, this, and this. And it was stated so anything outside of that realm was then put at a \$40/hour rate. I just want to make sure that what you guys have discussed with her is the same understanding of what her job for us is going to be exactly and \$40/hour doesn't matter to me but I want to make sure that we are talking the same thing.

Patty: And that we are not suddenly going to turn around and ask her to do something we didn't tell her to do.

Susan: And we did talk about reports and we talked about the reports that we wanted and the reports that we could do without.

Patty: And if you think of something, you know do bullet points.

Tina: But I would like to make sure we didn't forget something--forget to communicate.

Patty: Are you at a point where you can call her back and ask about contracts and ask about the liens?

Sandy: Yeah.

Pam: Because we may need to call a meeting if Susan Johnson expressed concern over starting with January, we need to--

Patty: I won't be here next week.

Tina: If we can do it, absolutely. If we can't, then we will just have to wait because I don't want to jump in--

Pam: Is Susan just going to charge us the per monthly rate for January, I assume, if we have to continue with her?

Tina: It is by the hour. But I would rather make sure that the transition goes smoothly and I would rather spend more to make sure that it was done correctly rather than to rush through and--

Pam: Assuming that is the only choice, perhaps we don't have to rush through and we can still get it done. That is what I am saying. Perhaps we can get the information we need and get it in place.

Tina: Right.

Patty: Yeah, I think what we are looking for is a contract and the question on the lien to go from there and again, if you have to make a decision next week then I'm fine.

Walt: No, because we want to be able to blame you.

Tina: Well, honestly, I don't want to rush it through but I think that if there is any way that we can make sure that everybody is on the same page before we jump in to making that decision as a Board, I would be a lot more comfortable.

Walt: Is this our dollar amount here on the budget, these three, these four? Thinking about \$10,000? Is that what we pay?

Sandy: Yeah.

Walt: So that is about 20 hours a month at \$40/hour. Very simple.

Tina: Okay.

Facilities Report - Cynthia, said right everything is still open so she really doesn't have anything to report so I am going to leave it at that.

Patty: Did she get a hold of any of the pool people?

Tina: Not that I know of but the weather hasn't been good for us.

Architecture Control Committee (ACC)

I have one which is 1576 Belgian Trail in addition to an existing driveway making it a circle, so if you guys just want to look at it, that has been approved.

Activities - No activity.

Buildings & Grounds - Stephen Gile. No report.

Covenant Committee - Chuck Nichols. No report.

Directory and Welcoming - Sandy Perry. No report.

Equestrian - Stephen Gile. No report.

Newsletter - Susan. No report.

Tina: The only thing that I could think of is doing another notice of the annual meeting and leaving that one in and a notice of the new revised Rules and Regulations but I guess we will talk about it to make sure everything is okay.

Susan: Would that be on the internet?

Tina: Yes, it will be posted on the internet.

Nominating – Pam Schultz

Pam: We have candidates.

Tina: Okay, I want to let you know who I have so far. Cory Flatley is one and then Patty Sward, Brian Cook, RC Cuellar, Stephen Gile, Steve Hamblin, and Chuck Nichols. Susan are you running?

Susan: I am not running.

Susan: So we are going to put this in the newsletter so everybody knows who is running for any open positions.

Tina: I think what we could do is just say that we have three openings for the Board because what we are going to do is we are going to be sending out right away this information. So what I have done so far is the letter, which is supposed to go out around the 19<sup>th</sup>, 20<sup>th</sup>. That is what I am hoping for. And just put the annual meeting will be held on Saturday, January 27, 2007 at 10 a.m. at the clubhouse. Check-in will be from 9 a.m. to 9:55 a.m. Please note you may vote during check-in. It is not necessary to stay for the meeting. Proxies must be registered with the secretary before the start of the meeting at 10 a.m. Attached you will find an agenda, general proxy, and the issue for vote at this meeting. So then what I did is, the issue for vote is going to be, and again, we always state what the quorum is, so vote will only take place if a quorum is met. A required minimum 51 homeowners/lots represented by attendance or by proxy constitutes a quorum. If a quorum is not met at this meeting, Board members will be appointed by the remaining active Board members to serve until the next annual meeting held in January 2008. We will make sure everybody knows that. And then, there are three openings for Board members. I will list all of the people by alphabetical order by last name, on this, and then there may be other nominations made from the floor. I want to put a note because we had confusion before that the person with the most votes will serve a three-year term. The person with the second highest votes will be a two-year term, and the person with the third highest vote will be a one-year term. So, then I have the proxy which is blank, obviously, and then the agenda and then the ballots and on ballot I will then add, because I only had the three names, I will then add everybody else's names plus spaces on the bottom for people to write in just in case there are people that stand up at the meeting that would like to be on the Board. So, do you want me to send these out to you or did you want to do the printing? Do you want--

Patty: When do these have to go out?

Tina: I should have the mailing labels from Susan from ABC around the 19<sup>th</sup> or so. So as long as they get out before the 27<sup>th</sup>. I will e-mail everyone this information.

Patty: I will be back on the 26<sup>th</sup>. When do I need to have them in the mail?

Tina: We usually give 30 days notice.

Patty: They may have to go to the printer then because I won't be able to do it.

Tina: Alright.

RC: I can print everything out for you. How many do you need?

Tina: 167. Do you want me to just e-mail it to you and then have you print them out? Just get me your e-mail address when you get a chance and we will do that.

RC: I could do that.

Tina: Can you make 170 of each page just in case?

RC: Yeah.

Tina: So, RC, when you get the copies done then call Susan and then you guys can coordinate with each other.

Tina: Now - the Rules and Regulations have to be finalized. I did a printout of them so that we can officially sign them tonight.

Patty: I didn't read them in detail.

Pam: And we have a change to one. She made this change. I just want it pointed out to you guys. Is this the time to do it?

Tina: Absolutely.

Pam: Okay.

Tina: Which one is it on?

Pam: On Inspection and Copying. Number 5. At the bottom it says "There shall be no cost to any owner accessing records which are required to be disclosed by Colorado law at no cost to owner." Okay, that now says the same thing except we added "If such records are not available on the Association's website." In other words, what they explained to me was, if we have made them available to everyone, then we don't have to copy them for homeowners at no cost.

Patty: I'm good with that with the exception that I still feel strongly that a lot of folks just don't have computers.

Susan: Yeah.

Patty: So that would be my only concern about that. I understand the point because--

Pam: They can do them I think and we can charge them \$1.50 if they want to do it that way. That is what was suggested by the attorney.

Patty: Yeah. But does it also give us the out to not charge.

Pam: I suppose you could but then you better be consistent.

Tina: We have to be consistent every single time, not only this Board but future Boards.

Patty: Yeah, but I don't want to put a person who does not have internet access in a position where they are going to be charged.

Tina: What was added, did they add that on?

Pam: Well, that was the question I had that we had discussed at one point in an earlier conversation I had with them a long time ago. So when I was going through this, I asked that question again and she clarified that for me on how--.

Walt: I don't understand why you are--I guess they have access to them. It doesn't say that we have to make copies for them. Is that what we are--

Pam: That's the point, yes. For free. We don't have to make copies for free of everything.

Tina: So if they have access, and even if they didn't have access--

Walt: Access is just giving them access to it, not making copies.

Tina: Right.

Patty: If you are 84 years old and you don't have a daughter, cousin, niece, something that would-- Why should she have to--why would anyone have to do that?

Walt: What are you saying? That they can't come down here and have access to them?

Patty: No, no, no. What I am talking about is having to charge someone who would otherwise get internet access--be able to go on line and do it. I just--

Walt: But we aren't charging them.

Susan: The pricing comes up that way.

Pam: No, that's just for copying.

Walt: They still have access.

Pam: They can come here and access them or they can access them on the internet.

Walt: Right.

Tina: Right. We only charge them if they copy it.

Patty: Okay, now I understand.

Walt: Now if they want copies of them, then yes, they do charge, but so would anybody else. But everybody has access and that is what the law says. They have to be granted access. We do not have to provide copies but they have to be granted access for the records.

Pam: Remember, all we do now is charge \$1.50 per page. We took out the \$14/hour so that is gone anyway.

Walt: They can view the records. They can't take the records with them. They can't take a copy of them with them but they can access the records. I mean, I don't see why having a computer would give them any advantage.

Tina: No.

Patty: Then you can go online and you can see them privately, at your leisure. Essentially it is almost the same as having the paperwork--

Walt: But that is their choice. I had to pay for my computer.

Susan: But not everybody can pay for one and--

Walt: But they have access. If I can't pay for one, I am granted access. I can come down here and look at them.

Pam: For free.

Tina: I think that it would probably be a good idea for me to go ahead and read which rules and regs that we are going to be approving. I want to make sure I make another motion to approve this so that we can sign off on these to make them official. I would like all of the Board members here to sign off on this and to make it the effective date today.

Pam: The only problem I have, Tina, is simply that I got these from her yesterday and I didn't go back through and compare what she sent to our notes.

Tina: That is what I need to know. Do you want to go ahead and wait? The only concern I have is the ADR because don't we have to have that done by January?

Pam: And she said that is fine. That is perfectly fine. I said that is good because it is on your website and that is what we like. We can go ahead with that.

Tina: Why don't I go ahead and make a motion that we adopt the resolution regarding the alternative dispute resolution. I'm going to make the effective date be December 14th of 2006. Do I have a second?

Pam: Second.

Tina: All in favor. Motion unanimously passed.

Tina: The Association hereby adopts the following policy in the event of any dispute involving the Association and an owner. The owner is invited and encouraged to meet with the Board of Directors to resolve the dispute informally and without the need for litigation. If the owner requests to meet with the Board, the Board shall make a reasonable effort to comply with the owner's request. Nothing in this policy shall be construed to require any specific form of alternative dispute resolution such as mediation or arbitration or require the parties to meet. Neither the Association nor the owner waives any right to pursue whatever legal or other remedial action is available to either party.

Tina: Discussion? All in favor? Aye, Aye, Aye. Now we got it. Sandy, can I get you to scan that for us and get that on to the website? And then we need to talk about getting it out to the public so if you feel that it needs to go in the newsletter with a notice that this one has been passed, we can attach it. We can get a copy from upstairs, Susan, and we can get it to them and then we will look over the ones that we got back to make sure they're the changes that we asked for. Then what we can do is just look at what we discussed and make sure, because Pam and I went through them again just to make sure that everything that... Remember Susan and I, we sat down and talked about--make sure that everything that we talked about got to Pam for her to then talk to the attorneys to get the changes done. So, we will just go ahead and since these aren't a big rush, we can go ahead and put the rest of these on hold.

Tina: The 2007 budget has been finalized with the changes from the November 14<sup>th</sup> Board meeting. I have them. And the changes were made that we had discussed. I don't know if anybody--because remember I sent those out to you guys? I don't know if anybody had a chance to look them over to see if there was anything else that they wanted to change.

Sandy: I thought that we had added extra dollars to the arena maintenance or barn maintenance repair or something to get more sand in there? We added \$2,000?

Tina: We didn't have it in there because we didn't use the money from the year before--remember how we talked about how we haven't been using any money for any type of maintenance. So this \$2,600 includes that in there.

Sandy: But when I get a bill from Jeff Minion for preparing the arena, it goes to arena maintenance so we are spending some of that money.

Pam: Right, but there was a huge carryover, and we just left it in there knowing that we are going to do more I think.

Walt: Yeah, we budgeted \$2,200 last year and we only have spent \$750.

Tina: We don't per say carryover. What ended up happening is, we don't even have any idea what the sand and everything is even going to cost. So we felt comfortable leaving it at 26 instead of cutting it. We would leave it at 26 to see where we are at because we didn't spend--we don't even have any idea what this is going to cost. It could cost us \$500, it could cost us \$1,000. So that is why we left it at 26.

Sandy: Okay.

Tina: And if it goes over budget, then we go over budget but we have no idea what it is going to cost to get that arena where it needs to be.

Sandy: Okay, and then all the billing, bookkeeping, payroll, and financial we are keeping in special projects, those are all probably a little bit high. Comparing it to what the original was--

Patty: At the time that we did this, we were looking at the RFP for the bookkeeping service--

Tina: We were looking at the expensive RFP. Yeah.

Tina: Yes, that is why we didn't change it because we thought we should leave this well enough alone until we really do have the bookkeeping service running. So what if we are high in our budget and we end up coming under budget, I'm okay with that.

Walt: Because we were over budget in that category last year.

Sandy: So whatever we save in accounting services, we put into sand for the arena?

Tina: Sure, why not.

Pam: Maybe we shouldn't move more money, is what you are saying, until we know why we are moving it and where.

Tina: Exactly.

Walt: Right.

Tina: I mean this is just a budget. We have gone over all of the numbers and have discussed all of this--

Susan: Does this budget reflect the dues increase?

Tina: We have made a motion to raise the dues by 5% going from \$43.05 to \$45.20 effective January 1, 2007. It was voted on at a meeting in November and was passed but we had notified the homeowners that we would be willing to discuss the increase at this meeting so we can open that up for discussion. Does anyone have any questions on reasons why we are raising the--

Bill Curley: What are we going to need all this money for?

Tina: We have the reserve study posted onto the website and we have a couple of situations that we know that we may need some big money for. If we need a new roof and we do not have the funds to cover that, that means that we would have to do a special assessment to all of the homeowners, even if it is a \$50 assessment to fix the roof. So, if we do an assessment for \$50, then that would mean that if any homeowner doesn't pay, then now we will be forced to send a delinquent letter, then a second letter then lien their property. All of a sudden we have a bunch of legal bills. We have the pool that we do not know how much that is going to cost us yet because we don't know what we are looking at. It could be minor; it could be a major project. We have the downstairs corner that has water damage that I've got Cynthia working on to get fixed. A homeowner thought there is a possibility that we may have mold in that corner. We don't know. But we definitely have to fix the leak and the problem that we have in that corner. We have the erosion between the two courts.

Bill Curley: Yeah, that is the erosion that has come up every single year since I have been in Pawnee Hills and every single year before that as a major crisis we had to solve and that is my point. Second, didn't we spend \$2,000 last year to have a study done globally about what this organization needs?

Pam: The Reserve Study?

Tina: Yes.

Patty: What did the reserve study say that we needed to have in savings?

Tina: \$300,000.

Patty: What was the reason for that number?

Pam: Read the reserve study and you will know.

Walt: You didn't read those 50 pages?

Tina: They had a projected starting balance of January 1, of 2006 is \$21,587. Ideal reserve balance as of January 1, 2006 should be \$152,797. Percent funded as of January 1, 2006 is 14%. Recommended reserve allocation per month is \$1,475. Minimum reserve allocation per month is \$1,375. Recommended special assessment in 2006 would be \$300 per unit at \$50,100. So, they recommended that we hit everybody up for \$300 in order to get our reserve fund where it needs to be from all of the things that they had looked at.

Chuck: The reserve study is based on the problems that we have and based on normal wear and tear and age so there are some deciding factors to establish what the dollar amount should be for the reasoning behind what we need to have in the reserve.

Tina: I would encourage the homeowners to look at the reserve study in detail to see what we are looking at and the cost that is involved in--

Pam: It is online isn't it?

Tina: It is on line.

Pam: What needs to happen and hasn't happened is that the Board, and I would say we should definitely wait at this point until we have a new Board. But the Board needs to go over this reserve study and make our own priorities. That needs to happen so we can establish a plan, a long term plan, on what we are going to attack first and how we are going to go about it. That has not happened and that needs to commence.

Stephen Gile: Is that a realistic price on how much it costs to fix these things?

Tina: And that is why they give you a high and a low amount for an estimate.

Pam: Let me save you some time on where you are going. That part doesn't matter to me. Because what matters to me is that the Board prioritizes the things that we think are the most serious problems and then, if we choose to go after those, of course we will get bids for them. So what they said is that--

Tina: This is just a guideline. It is a good guideline for this community to really get a detailed idea of what this is all about.

Patty: And I have heard that \$150,000 in savings before and I think it would be reasonable to state that I don't imagine anybody on this Board or upcoming Board has any illusion we are going to get anywhere near that in the next 10 years, but if we can get some real savings put away so that if we do have something come up that we can handle it. We have \$15,000 to put in the bank. That is nothing.

Tina: No we have no idea what the pool is going to cost us. None.

Tina: The reserve study is a guideline. It is something that will help the Board make decisions in the future.

RC: But you are going to have to act upon it right now to make the dues increase.

Tina: No. We are acting on all of the different things that we see within it that we know are going to be coming up to be fixed.

Pam: But what I am hearing is and what I am feeling is this. If the Board prioritizes and establishes projects and gives those projects a start date and gives those projects a price, then people are going to be much more comfortable with the dues increase.

Patty: We just know there is a whole bunch of stuff in here.

Tina: Sure, but part of the problem is that, again, I don't have what the pool will cost because it is a time and material job. I would love to be able to give you an amount between, even saying between \$5,000 and \$10,000. I can't even do that. It could be \$300. So that part is hard. The other part about--

Stephen: I can get you all kinds of prices.

Tina: Well, the other part with the erosion thing between the two courts, we have now got more information from Elbert County who is helping us, getting a list of all of the engineers and stuff that will help us figure out this problem and the best way for us to handle it.

Patty: And we might get a grant on it.

Tina: And we might get a grant, so we are working on that. The corner problem we have been talking about for a while but now it is getting to where it is getting to a high priority. So I can tell you that I know that we have a lot of things. What I don't have is actual solid prices yet.

Pam: Have we asked Cynthia to bring in a contractor regarding that corner?

Tina: She has talked to Elbert County and they have given her a list of companies that will come in and check that because you need to have a professional, obviously, to check for mold, if there is mold.

Patty: The county does have a number of contractors that are familiar with that.

Tina: So, we do have things that are coming up and it is not solely on this reserve study. It is realizing that I would prefer to not do any type of special assessment if there is any way we can get around it. And that to me is raising the dues again to try to make sure that we have a--

Walt: Well, plus we don't have the funds to repair it right now so every year that we don't have a fund, it goes up as everything goes up so the cost of repairing the roof right now is one price. The cost of doing it in five years is another price. So we have to also account for inflation and staying ahead of that and that is a big chunk of that 5% we get every year. So we need to track that and stay ahead of that. I mean, so we are not getting 5% going into a savings fund. We are only getting a small percentage of that according to inflation. So you have to look at that. We can't repair everything at once. We have to balance it and budget it out for the future.

Patty: Just like the drainage problem, what can we keep pushing out.

Tina: We keep pushing everything out and we are not getting anything done.

Walt: Prioritize just like we are saying.

Stephen: Can I make a suggestion on checking for your mold? Now granted you want to verify it, but you can go down and buy a test kit for about \$7 or \$9 just check it to see if you've got it. If you've got it then you know you've got it.

Tina: The next step really is to have somebody come in here to tell us how bad the water damage is and what it is going to cost to correct the problem.

Patty: Will the kit pick up all of the molds? I don't know anything about mold.

Stephen: It will pick up normal household molds.

Tina: And again, we--whether we have mold or not, we have to fix that corner. And I've got Cynthia getting contractors to come to look at it to give us an idea of what it would cost to do that.

Walt: Also, once you identify the mold is there, you are required to remove it. So identifying it could step into a big expense. We are required.

Tina: Yeah.

Walt: The options are gone once you identify it.

Tina: Absolutely.

Walt: Let's leave it as a mystery.

Tina: Any other discussion regarding the budget or increase of dues or anything like that so we can get this--

Tina: What I would like to do is get the budget out in the newsletter and to have it available at the homeowner's meeting. So I am back to my original motion of approving the 2007 budget--operating budget. Do I have a second?

Susan: Can I just ask one more question?

Tina: What we did before. We are still in the discussion part.

Susan: You know, guys, go ahead and vote. I am not--I don't know. Well, we have money--we are money ahead. I know that we are trying to save for a rainy day. I understand that. But we are plenty ahead already.

Tina: Well that is because we have the dues increase. That is the only reason why we have \$65 extra at the end of the year showing on the budget.

Susan: No, we created that.

Walt: Our current is \$1,841.

Susan: Right, we are currently ahead of budget right now.

Tina: By \$1,000. But that is only--

Susan: Well we know that we have legal fees coming in that we spent last year that will be reimbursed.

Patty: Let me give you my sense, Susan. I personally would rather have end of 2007 not a little bit flushed but significantly flushed and not do the dues increase in 2008. That is my preference. I would rather do that than end up behind which I have helped cause happen in the past.

Susan: But in 2008 you are going to come back with the same thing.

Tina: We might. We don't know what is going to happen.

Patty: Then let's play smart in terms of what the community needs in the face of what we know are our problems. That drainage is not going to get fixed in the next 20 years but the corner downstairs needs to be fixed.

Walt: I guess I look at it as if past Boards would have passed the 5% every single year, we wouldn't be in this situation we are in right now. And I don't want to do that to a future Board. And that is why I keep voting for the 5%. I just think it is a bad idea not to take it. It is bad for the community and it is bad for the Board. We just can't--and then if you try to get it later, look at the legal problems we had last year and I just think it is a bad idea to not get it. I think if I would have known when I first moved in here 16 years ago that this was going on, I probably would have been up here complaining about not getting that 5% increase every year. I didn't know we were going into the hole until I got on the Board and now I realize we should have been assessed 5% every year. We lost thousands of dollars that we can't get back.

Patty: And the community as a result has lost.

Walt: We would have a nicer community.

Patty: Absolutely.

Tina: The Board hasn't even had a chance to look the reserve study over and really talk about it. We still have items on our to-do list that are little items around here, our punch list that we haven't even touched yet. If we didn't have Cynthia doing what she is doing right now for us as far as the contractor and business stuff, we wouldn't be where we are at right now.

Tina: Okay, back to the motion to approve the operating budget for 2007. All in favor. Aye. Aye. Aye.

Susan: You know, I think I am going to abstain.

Tina: Four ayes, one abstains.

Legal:

Tina: The legal items that I have right now, to give an update on, Linda Lee's poultry removal deadline was October 31<sup>st</sup> of 2006. Pam Schultz did drive by.

Pam: No, I walked the bridal trail.

Tina: Thank you, walked by.

Pam: I walked the bridal trail and mainly walked my property, actually.

Tina: And it appears that the poultry has been removed.

Pam: I didn't go on the property or anything, so.

Tina: But we are fine with that. We just needed to make sure that it was official that a Board member did check and it appears that the poultry has been removed.

Tina: Next, Larry Beireis and Alta Mae Jackson, the deadline for their unapproved chain link fencing that was supposed to be replaced/removed was November 1<sup>st</sup> of 2006. On the 4<sup>th</sup> of November, they still had some chain link fencing. So what ended up happening is that we took photos to document that they still had chain link up and that they had a pole going across the top of the fence that was not approved by ACC. Then we sent those pictures and information to our attorney who then wrote a letter to the Beireis' attorney, explained it to them that if this isn't done then you could be in contempt. Please notify the Board and myself or something of what is going to happen next. We have not heard anything at all from their attorney, from the Beireises, from anyone. So we are looking at--our attorney was going to contact by phone their attorney and say--you know, one more attempt by phone to say help us with this. What is going on? And if we get no reaction from that, then we are filing for contempt. If we do end up in court again, they will have to pay for those fees also. So that is our update on that one.

Bill Curley: Did they show what it would look like?

Tina: They did.

Bill Curley: Who did?

Tina: The Beireises submitted to ACC what the fence would look like. The Beireises submitted to ACC not only a drawing but a picture of what fence material they were going to use in doing this.

Bill Curley: So they are not in compliance, is that what you are saying?

Tina: Yes. They submitted to ACC exactly what they were going to do to come into compliance and turned around and did something different. Sad, but true. I think unless somebody else has anything else other than the declaratory for the legal stuff.

Pam: Have we figured out how we are going to record these meetings when Walt leaves us?

Tina: No, Walt was supposed to work on that and Walt, my decision is that you are not allowed to leave the Board of Directors until you have satisfactorily figured out how we are going to record these minutes in order to get to Marji for transcription.

Walt: Well, how much funds are you allowing me to go acquire a recording device that runs the same ways as this does?

Tina: Whatever it is that is getting it now. It should be a wave file. She just picks up the stick with the file on it and transcribes the minutes, then returns the stick for use again.

Walt: I guess I can see what I can find that is similar and then--

Tina: Well, it is totally up to you. You can take six months, you can take a year, but you are not leaving until this is done.

Pam: We are a little concerned about it.

Tina: Well, he is not allowed to leave. And realize this, we do need a secretary so I'm hoping that in January, that if someone does get on the Board, that possibly they would be willing to volunteer to be the secretary. There is paperwork that you still have to sign as a corporate secretary. And the only reason why Walt is the secretary is because there isn't anybody that has volunteered to do so. So, again, if we lost Sandy, the Board is responsible for a treasurer, we are responsible for secretary, we are responsible for all of that stuff.

Tina: Do you want me to read the letter that Cheryl Mulvihill had sent to David Fried, which is Beireis's attorney? Does anybody want me to read that one out loud?

Pam: No.

Tina: Okay.

Tina: I think we have gotten all the business aside and I think we need to talk about the declaratory. The first thing that I want to do is I want to read a letter that I just received from Cheryl Mulvihill regarding the declaratory judgment. This is a letter that she wrote to the Board of Directors for free because I called her to let her know what the result was from our last vote so that she knew that it didn't pass. The home occupations did not pass and that we are still on hold for the declaratory. The Board had not moved any further. She asked me the reasons why. I had explained to her that we thought that we came up with an idea as far as writing a Rule and Reg to allow for home occupations. She then decided to write this. I'm sorry, we decided to write a Rule and Reg on the definition of commercial activity per Elbert County Rules and Regs. I'm sorry. So, in doing that, she then said, "I will write a letter to the Board of Directors for free" and I am going to go ahead and read this to you because she just sent this to me. "Dear Board, We are gravely concerned for the Association and for you Board members individually by the rumors we have heard about not going forward with a simple declaratory judgment. Reasons are everything from the pressure of a few outspoken homeowners to a fear that you might not get the results that you want. We have been in touch with opposing counsel in this matter. We all think it is likely that if we submit a stipulation to the court asking for an interpretation of commercial activity, which would allow for home occupations as we define them, the court would agree. Of course there is no guarantee of what the judge will do. However, the Board and its individual members would be protected from liability by having taken this intelligent approach. As attorneys for the Association, we have warned you that the present pattern of activities cannot continue, especially since you have been put on notice clearly for more than a year now that the attempted amendments to the bylaws may not only be invalid but are in direct conflict with the covenants as they are written. It is apparent that you knew because you kept holding elections to try to remedy the problem. The elections failed. The Board may not blissfully turn a blind eye to businesses operating within Pawnee Hills and not expect to have legal actions brought against the Association compelling the Board to enforce the covenants. Big deal, you might say? Let them spend their money to sue us. Here is the problem. First, they would win. Second, the new laws would make the Association pay for their attorney's fees as well as the Association's. Third, the errors and omissions insurance that the Association has may decline to protect you because this is a grossly negligent act on the part of the Board. You knew what you had to do and refused to do it. There is a risk of personal liability on the part of Board members in a case like this. You have easily within your grasp the ability to resolve the question by letting a judge decide. The monkey is then taken off your back. Whatever he says is the rule. Simple. Sincerely, Cheryl Mulvihill."

Pam: So, I take it they would rewrite the request for the declaratory judgment then because it currently is not worded in that way.

Tina: They would add a stipulation to the declaratory judgment, both her and David, asking for what she had in this.

Patty: Hold on, based on the conversation that we had on the phone that she actually kind of liked the idea that she thought that was a good thing.

Tina: Yes. A good plan.

Pam: What was that plan?

Tina: Putting a stipulation in on the home occupation. It helps to guide the judge. It also makes us look like we are being proactive.

Chuck Nichols: The judge is going to look at what happened in 1998 versus what happened in 2000, versus the five or four votes that we have had thus far. Those votes have clearly stated that this community does not want home occupation, period. So are not going to get that written in as a stipulation. The judge is going to say, "What a minute, I'm going to go against the will of the majority of the people living in this community?" We never even achieved a simple majority to vote for home occupation so a judge, you know --

Pam: I'm back to square one when I look at Elbert County and what they say about it. I don't think we needed to panic in the first place because I think home occupations and commercial activity are just two different things.

Walt: Correct. So does the county.

Pam: And I think we overreacted in the first place.

Susan: And home occupations were never disallowed, commercial activity was.

Chuck Nichols: But what I'm saying is that the judge is going to look at this and see that we have had five or six votes--

Pam: But I don't think the votes show that the community is against it.

Tina: Okay, let's go back--I think that--okay, we have tried it five times and I understand that. There was something that was brought to my attention that I didn't really think about and, Patty, you and I were on the Board when all this stuff was really happening in the end part of it, which was, in 1998. That is when they actually had the vote to change the covenants. That is what everybody was voting on. What ended up happening, is the Board did their own thing, arbitrarily said we are going to do a bylaw change, so that meant that, Patty, you voted for a covenant change and this Board decided we are going to make it a bylaw without even talking to anybody. Guess what? It is not even in the minutes and the sad part of it, we barely made a bylaw change. So, the Board did something back then so illegal--so illegal--that caused this rolling rock to go downhill to make it even worse for now--

Pam: Was that vote taken at the annual homeowner's meeting?

Tina: No. We had the annual meeting on December 5<sup>th</sup> or something like that. December 5<sup>th</sup> was like around the annual meeting. So what happened was, on December 10<sup>th</sup> in the minutes, it says the Board members reviewed the vote from the annual meeting. They looked at it and went, "We're screwed - it didn't pass." So, the Board at the time wasn't us, okay, it was Leslie Varnicle, Chris Reynolds, and Dave Wood. So they looked at it and went, "This didn't pass as a covenant change." So I needed to find out how this whole thing went down. I looked and I found on April 8<sup>th</sup> of 1999. The Board of Directors discussed doing a mail-in vote for changes to the covenants. About a general meeting during June of 1999 for the vote for the covenant changes might work. Okay? So July 10<sup>th</sup> of 1999, they had another covenant change vote, alright? It didn't pass. August 12<sup>th</sup>, they decide that since only 5% voted on the covenant change that nothing passed. Okay? May of 2000, I'm appointed. You were already on the Board by then Patty, and August 14<sup>th</sup> of 2000, they filed with the county the bylaw change and in all those minutes, the reason why you and I being on the Board didn't know what was going on and didn't remember any of this is because it wasn't talked about. Denise Young and Ginger Wood as secretary just went ahead and did a bylaw change without discussion of the Board members. That is why you and I were so stumped when it happened because we were on the Board but it happened without us even knowing. We didn't even get a copy of it. We didn't find out until after we had gone to the

county to get copies of the covenant and bylaws that we started putting it together and even when we saw the amendment we still didn't know. So my concern is, as we are doing this declaratory, we are getting very well educated and I want to take all of this information and realize that if we look back in history, the Board of Directors made a huge, huge, huge legal mistake that I feel compelled to fix.

Chuck Nichols: Legally this Board, once you find out about it, you are legally bound to do that fix.

Tina: And before I was asking, I kept saying, "Hey, the past Board made a mistake. We just have to fix it." But this is a whole lot more than that now.

Pam: First of all, we have people who have their hands up. I have something I want to say about it but I would like to hear where these two stand.

Bill Curley: How severe if someone in the community wants to make it severe. That is the only way it is severe. These laws are our laws. They are nobody else's laws.

Tina: Do you want to take that chance and wait until somebody does it?

Bill Curley: Absolutely. Because it is true what Chuck says, that if you abstain from voting on a covenant change, you have, in effect, squashed the covenant change legally, but as Patty is suggesting, in parliamentary terms, abstention means affirmation and we don't really know but if you choose not to vote on something, you're essentially saying it is okay by me. Now legally that don't fly.

Patty: Right.

Bill Curley: But nobody challenges it unless somebody makes it an issue. Now Chuck, I don't know where you stand on this business about home occupation and I don't really understand the reason but are you essentially suing us saying that home occupations are illegal?

Chuck Nichols: No, I'm not suing anyone. I am simply a figurehead and a name on the lawsuit so that the attorney and the judge has someone to look at, say that there are members of the community that are being represented by counsel that basically kind of a lawsuit against themselves.

Tina: And for us to do a class action.

Chuck Nichols: I am just a name for us to participate. So I am not--I did not initiate nor have I placed any funds in the coffer.

Bill Curley: What I would like to point out about that letter is, first, this attorney has an interest-- a financial interest in the case. Well, she does.

Tina: Bill, let me put it this way. She only charges us \$185/hour. She has done a huge favor to this Association by doing that. But I don't think that's why she is writing this letter. She is not writing this letter hoping to get more money. She is writing this letter to make sure that she is protecting our interests--

Bill Curley: How do you know?

Tina: Because I have worked with her in previous lawsuits.

Bill Curley: I understand that view too but I hardly suggest she doesn't have an interest or know which buttons to push around here. For you to say, for her to say that she doesn't know what the outcome of the suit is going to be --

Walt: Well, let me read it because that was my question too and I had to reread it. First she says that she has no guarantee on what a judge will do. Then later she says they will win. Now how does she know? Two

different lawsuits but how does she know what a judge will do in one situation and does not know what a judge will do in another situation?

Chuck Nichols: I'll answer your question. I'll answer the question based on what another attorney has stated to me.

Walt: She does not know that they will win.

Chuck Nichols: If I take you to court. If I take this Homeowner's Association to court and I sue you and I say you cannot allow home occupation. What you have done in the past is illegal because it is fraud. That is the lawsuit that she is talking about. Someone coming after the Board--

Walt: How do you know that you will win that lawsuit? How do you know? She does not know you will win that lawsuit.

Tina: No but I can tell you that if you look at all the information that we have right now, knowing what this Board knows now, if we drop this declaratory and start allowing home occupation--

Walt: We are not allowing home occupations. We are not even addressing that.

Tina: Okay, allowing commercial activity--

Walt: We are not allowing commercial activity.

Tina: Okay, someone turns somebody in for a farrier business, then you are saying what? It is not--

Walt: It is not commercial activity in the Board's opinion.

Tina: Alright. In the Board's opinion it is not commercial activity, right?

Walt: Correct.

Tina: And I don't care if it is Melaleuca, Avon, whatever. The Board decides that they are going to start writing letters out to the community saying it is okay for you to have that.

Walt: We are not writing letters to saying it is okay for you to have that. We are saying it is not commercial activity.

Tina: We don't feel that it is against the covenant. How is that?

Walt: We will say we do not--

Tina: We have to respond if somebody turns somebody in--

Walt: Our response will be it is not commercial activity.

Tina: And it is okay to have them, we need to respond back. That is only respectful.

Pam: See, what I'm saying--

Tina: You are making a decision.

Pam: If the 1998 bylaw was illegal, and we ignored that...if we don't utilize that in our thinking process, then it is unimportant. If--and that's fine--I have no problem with that. But what I'm saying has nothing to do with that bylaw change. What I am saying is this. That Elbert County says that commercial activity--

Walt: No, we are not trying to make it legal.

Pam: Two separate things. I think we have made this much harder than it needs to be. Our covenants say no commercial activity. I still say no commercial activity. Done deal. Anything that fits into home occupations according to what they have told me, I am fine with. I don't understand why we are making this so hard.

Walt: Let me answer Patty's question. That is not removed from the covenants. The illegal action is not removed from the covenants. We are trying to make an illegal action legal. That is wrong. We are trying to make--the declaratory judgment is taking what they did in the past that was wrong, and trying to make it legal for a special class of citizens. In my opinion, that is not a good thing to do. Do you understand we are taking an illegal act in the past we are trying to make it legal?

Patty: Yeah.

Walt: Rather than just having it removed, we are trying to make it legal.

Tina: Yeah, but you know what? I look at it this way. If I am personally liable, okay, I am personally liable as a Board member. I am--you can say all you want about not being personally--you're damn right I am personally liable and I feel a responsibility to this community and knowing all the information that I know now, for me to stop the declaratory, I will have to resign my position in order to not be caught up legally personally in this mess. And I want to make sure that the community knows that I think this is the worst idea ever to stop this declaratory. Because I will guarantee you and I am just going to say this, if Bob Rowland is looking at the state of Colorado and looking to make sure that our agent's name got changed from John MacArthur to Tina O'Bryan, if you don't think he is going to take this and run with it, or any other homeowner that is upset because we have sued them in the past and they are having to pay dues or pay us back for the legal fee, if you do not think that they are going to go after and test that theory, then you are very well mistaken. But do I want to be tied to this community--I want to be able to tell this community that I did the best that I could legally to cover what I could--

Chuck Nichols: That you did your due diligence.

Tina: Absolutely.

Walt: And here is my opinion on the due diligence. We took this to the community five times. We tried to do our due diligence. That is a lot of work to take it to the community and try to get it passed. We have done our due diligence. We tried to get it passed legally. It didn't work. We should throw it out.

Stephen Gile: Should we just remove it from the bylaws?

Walt: We should remove it from the bylaws. It is an illegal document.

Tina: Okay, so then we are back to commercial activity is not allowed and--

Walt: Commercial activity is not allowed. I agree 100%.

Bill Curley: First in reference to meetings to remove anything from the bylaws that's not true. The only thing that is suggested in the declaration is that the covenants, the declaration supersede anything but bylaws. That is all it says. So if there is something in the bylaws superseded by the covenants, it is automatically invalidated. You don't have to do anything about it.

Pam: See, what I am saying is if there are two different things, then it is fine. The covenants can say no commercial activity and the bylaws can say you can have home occupations because they are two different things. They don't conflict in my opinion.

Bill Curley: I do worry, that you are worried, Tina, that somebody is going to take your house. I do worry that you are worried about that. You have always been worried about that.

Tina: And you are telling me I don't have to be worried, Bill, and if--

Bill Curley: I am telling you that the courts will bend over friggin backwards to indemnify you against...

Tina: But you know what? That's a huge chance that I have to take a personal chance for this community.

Bill Curley: You take that chance every time you sit down at this table.

Tina: Absolutely.

Bill Curley: I know that you don't like taking chances. Only one suggestion I have. We are all taking the chance. I'm just saying--

Tina: Yeah but I want to lessen my risk.

Bill Curley: The law will bend over backwards to make sure that you are indemnified and so the covenants so that you will be able to do this job without that fear. We pay good money--one more time, I've said this 15 times--we pay good money to get a legal opinion on this very topic because you were frightened.

Tina: Well, it wasn't just me. I'm not the only one who asked for the legal opinion on this Board.

Bill Curley: You asked for an opinion from Holmes, Roberts and Owens and they told you that you didn't have to worry.

Tina: They haven't been our attorneys for a very long time. And the laws change, Bill. And if you don't think that if we have done our due diligence and we gather all of the information and have all the knowledge in the world and we decide to go against that information and legal opinions that we would not be liable for that?

Bill Curley: You try, the law knows that you are amateurs.

Pam: If I sit there and tell the judge, "Judge, from what I read from Elbert County and what they said to me and what they have printed, is that commercial activity is different from home occupations and I honor that in that I don't allow commercial activity in this subdivision; I would not allow it as it is written by Elbert County." Then you are telling me a judge is going to come take my house because I did what I thought was right? See, I don't think so.

Bill Curley: The judges render decisions based on circumstances and they will protect you. Unless you are guilty of gross negligence or self-interest of public money. In that case, you are on your own, kid. But if you are acting with due diligence to satisfy the needs of this community, you are okay.

Tina: Okay, Bill. I want this on the record. So you are saying that--if this Board decides to stop the declaratory judgment and a homeowner decides that they are going to turn somebody in for Avon, and this Board says, "You know what? We don't think that that is a covenant violation. We think that that's okay. That is accepted." And that homeowner says, "Are you kidding me? I'm going to test it and I'm going to test this in court."

Pam: Let me back you up a second. We still have to define commercial activity.

Tina: So we decide that--okay, what would you say would that be okay? Avon?

Patty: We would say per Elbert County Rules and Regulations, it does not qualify as commercial activity.

Tina: Okay. And you realize that "See Commercial under Elbert County" is just a zoning definition.

Pam: But you realize that we use that definition and make it ours.

Tina: But I want the homeowner to know that that is just a zoning definition. That is not what they define as commercial. They just define that as this is a commercial usage within--these are the activities that you are allowed to have within that zoning.

Pam: When someone reports someone for commercial activity in this subdivision, that is what Elbert County is going to use to come out and assess whether or not it is a commercial activity. I guarantee you they will use that.

Tina: I am back to the devil's advocate here, alright? I'm not done with my story here. So the Board decides that X event, Avon, okay? Avon. That is okay because it doesn't fall within Elbert County's commercial definition.

Walt: Well, because we as the Board don't feel it is commercial activity.

Tina: So we as a Board say it is okay. So a homeowner says, "Wait a minute, they go after poultry and they aren't going after Avon. I feel Avon is commercial activity, they don't. I think I am going to test this in court." So this Board is willing to risk losing that case and having to pay all of the attorneys fees when we are only \$1,500 away from a solution to the problem.

Pam: No. You show me how it is going to be a solution. I am not convinced that--

Tina: You can remove as much liability on this Board as members as possible.

Pam: Maybe I'm foolish and I probably am very foolish and my husband would probably agree with that right off the bat, but I was thinking that I personally am much more concerned about doing what I really think is the best thing and the right solution for this community. Maybe I should be more concerned about being sued. I just want to do what's right. That is what I want to do.

Tina: Me too.

Pam: I think tonight what we need to decide is whether to proceed with the declaratory judgment or whether the Board needs to proceed by coming up with a definition of commercial activity. I think that is where we are. Because we have talked a whole lot about different things.

Bill Curley: I think we need to do everything you can to stay out of court--

Tina: Wait. Can I say something. We have tried our hardest to stay out of court.

Bill Curley: I'm sorry. We have initiated this declaratory judgment--

Tina: No. I'm talking about any of the other legal stuff. If the declaratory was the only legal thing that we had to deal with, this would be a piece of cake it seems like. But we have had to deal with, you know a lot of other issues--

Homeowner: You are not protecting the covenants. You have got all kinds of authority but for you to hire attorneys to go do something outside of what is covered in the covenants, I don't think you have the right. Go get the chickens and stuff that is enforcing the covenants.

Walt: The Board is actually the individual that made the mistake so the homeowners have to take the Board to court to ask for what their clear rights are.

Tina: I've talked to Floyd and I've talked to Debbie at the zoning department. And they just define the zoning--they say please understand we do not, do not, Elbert County does not define what commercial activity is. No way. Absolutely not.

Pam: Who was it that said that Elbert County does not allow commercial activity in the subdivision, they will be right there on it? Who told me that?

Tina: They will.

Pam: Well then they must have a definition if they are going to be right there on it.

Tina: But they don't have a definition of "commercial". There is a difference between commercial and commercial activity. They do not have a definition of commercial activity. They have a definition of what is commercial zoning but they do not have, and they wanted to make it perfectly clear to this Board that there is no such thing as a definition through Elbert County for "commercial activity".

Pam: What are you thinking, Walt? What are you thinking about where we should head with this?

Walt: I'm still strong with leaving our covenants as they are and referring any--I would vote to halt the declaratory. I don't agree with Cheryl's letter.

Patty: Honestly, I could vote to go forward at this time mostly because I just really don't know enough at this time. That is the bottom line. I think whatever we are voting on here, we are voting yes or no.

Tina: See, I'm in the same boat. I'm not sure either way either.

Patty: I don't know if that public meeting would be helpful. I don't know if it would be helpful to look to other communities that might possibly be in the same boat we are in.

Tina: See, I'm kind of like Patty. I'm not ready yet. I don't know why, I just--I'm not saying either yes or no.

Patty: If I were to have to be forced to make a yes or a no vote tonight, it would be to go forward.

Tina: Me too.

Bill Curley: Why don't you allow yourselves, since we have a homeowner meeting coming up here, allow yourselves the luxury of having the homeowner's decide.

Pam: I know what they will decide.

Tina: Yeah, but they don't have all the information either, Bill, so that is not fair. If we have what we know now, all of the information that--

Pam: He is saying to present the information.

Tina: Well, then I would say have a town hall meeting.

Bill Curley: The town hall meeting, as we have all determined, will have no effect on this.

Tina: Not necessarily. The town hall meeting would give even more information to the community and give everybody a chance to ask whatever questions that they wanted to ask.

Bill Curley: At a prior meeting I asked this question. At a town hall meeting, will we be able to weigh in and say yea or nay? And the answer was no.

Tina: I thought he meant yea or nay on what was going to be said at the—the town hall meeting would give everyone an education.

Susan: We don't have all of the information that is available to make an informed decision.

Bill Curley: And how are you not informed?

Tina: That's what I'm saying. The town hall meeting gives the whole community and the Board a chance to ask all the questions. Maybe a community member will ask a question of David and Cheryl that we never even thought of. Maybe this gives us a better direction, more education in order to make a decision.

Pam: Combine that meeting with the annual meeting.

Tina: We cannot combine it because we don't have enough time.

Pam: I want to know what the people want to do and you can say they don't know a lot but I think they probably knew quite a bit.

Tina: I think it is important that everybody in this community has the chance to ask the questions and get the answers that they need to feel comfortable. I mean, I don't feel comfortable.

Chuck Nichols: If we had a town hall meeting, we need to allow whoever is there to ask whatever questions--

Tina: Yeah.

Patty: I just want to make sure that we have enough folks there and that we can, therefore, as a community take a vote.

Tina: But I think I will be a whole lot more educated by hearing some of the questions that are coming from the community and I will be a whole lot more educated hearing what the answers are and getting a better feel for this coming from Cheryl and David and the community. I think it is really important to--I feel like I am taking something away from the community by not allowing them to have this--

Pam: It will be another probably \$1,000 meeting, I can about guarantee you.

Tina: Well, David said he will do it for free. But I still think it is important for this community to have that chance. I really do.

Tina: I want to hear what the community members have to say about this.

Bill Curley: But you don't want them to have the deciding vote.

Tina: I didn't say--no. What is wrong with the straw vote?

Bill Curley: Because it is not binding on anybody.

Tina: It means something to me. You may not think it means something to me but it does, Bill. It means something to me.

Bill Curley: Then why not make it stay.

Chuck Nichols: They have already said they are going to listen to what the community has to say and how the community says will reflect on the vote.

Walt: I'm not going to listen to it. I won't be on the Board so it won't matter to me.

Pam: I want to hear from the community.

Chuck Nichols: And based on what you hear from the community as well as what you hear from the attorneys the Board can make a decision.

Pam: And it will honestly depend on how many community members show up and have an opinion too. If I have 150 people telling me this is the way I want you to go then I am absolutely going to do that, probably without question.

Walt: That is not going to happen.

Pam: I know but I'm saying. And if they show up and they are split down the middle, that is not a huge help for me.

Tina: No, but it may change some people's opinion about this in either direction. Absolutely.

Pam: I just don't want to make more mistakes while we are learning. That's the thing.

Tina: Okay, so really right now, guys, are we in agreement that a town hall meeting has to happen?

Patty: Yes. I will second that.

Susan: I just have a quick question. When I asked a while ago do Cheryl and David have all the information, do they have the information on the bylaw change and that--do they have all the background information?

Walt: Probably not.

Tina: I don't know what they have and what they don't have.

Susan: It seems to me--it is my opinion—that if they should be savvy enough to answer the questions, they have to have the background and I--

Tina: I can send them the minutes for that whole time period. I can send them the actual votes. I can send them whatever.

Tina: So do I have the authority to send Cheryl all of this information from the Board?

Pam: I'd like to know how much it is going to cost us, I can say that.

Tina: Well, so we are back to just having the town hall meeting, so--

Bill Curley: I think it is pretty obvious that given the confusion still persists after all these conversations with all these attorneys that we still have no god damn clue what we are doing. This, then, strikes me as way --

Tina: Okay, stop. Stop. I want to interrupt you on that one. I have from the beginning asked this Board to sit down with David and Cheryl and/or just Cheryl to go through all of this stuff and an explanation and I had a Board that decided they didn't want to spend the money. So, it wasn't that, like, we just are just playing around here.

Bill Curley: That's not what I'm saying that you are doing your damdest to push this thing as far as you can. But after all this time where are we still?

Tina: We are a whole lot more educated now than we were a year and a half ago.

Chuck Nichols: And it is filed in the courts and is ready to go before a judge--

Bill Curley: You mean papers have been filed and it has been put on the docket.

Chuck Nichols: It has not been put on the docket, it has been approved by a judge to be heard as a class action...

Bill Curley: What I'm saying here is that if we the people who have chosen to delegate on themselves total responsibility for making this decision, at this point are still terribly confused about everything even though you have the opportunity to sit down with these people and talk to them.

Tina: No I haven't.

Bill Curley: I don't know there is an awful lot of communication there. But we still--this whole thing is so convoluted we can't explain it to you or to you or to you or to me after all this time?

Patty: We are off subject. We need to get us back to, are we or are we not going to have a special meeting in February?

Tina: Wait.

Pam: How about a special meeting?

Tina: Are we having a town hall meeting?

Patty: Thank you, that is where I was going.

Tina: And I don't know when it will be because there has to be a letter that goes out to the community that has to be coordinated with Cheryl and David. They give us dates that they are available and this Board picks from those dates. A letter then goes out to the community inviting them to the town hall meeting informing them of the date, time, place...

Patty: Okay, and that's fine. So are we as a Board, do we feel that is the next best step to be educated to make a decision?

Tina: I say yes. I want the community to have a chance to ask questions and I want to have the chance to ask questions.

Bill Curley: You have always said emphatically that you believe in the declaratory judgment, and you insist that it must happen.

Tina: I don't think I insist that it must happen. I have said that I believe in this declaratory.

Patty: We are off the subject. I want to know whether or not the other members of the Board feel we should do a town hall meeting. That is a yes or a no or a "gee, I don't know" question.

Walt: No.

Patty: Okay, Pam?

Pam: No.

Patty: Susan?

Susan: No.

Patty: Okay, what do you think the next step is? Because I am serious when I say I don't have enough information and I am not going to pretend I do. So what is the next step to get that information?

Tina: Now this makes no sense, guys. If we don't have any information--

Patty: I want an answer from Susan. What is the next best step? Not going forward with the town hall meeting.

Susan: I believe we are back at square one and we need to define commercial activity. I am just--it is my belief that we need, whether or not we go forward, we discussed this at the last meeting, whether or not we go forward with the declaratory judgment, we need a definition. I believe that needs to happen.

Patty: Okay, but that doesn't answer my question.

Susan: I believe that we need to get--but that is why I believe we have to have it.

Patty: Okay, so that is the next step. Okay, so we get a definition, which we do something with.

Susan: But that still leaves, we have a declaratory judgment out there and there is stuff that I agree with you very wholeheartedly, but we are leaving this hanging out here. I think that we need to sit until we--I still think we need to have some background information.

Patty: How are you going to get that?

Susan: I don't know at this point.

Pam: Background information for what?

Susan: Background information--was this filed legally, the bylaw change. Does it even matter? The point is that the covenants supersede the bylaws anyway and our bylaws say no commercial activity and if commercial activity is defined by the Board, then anything else would seem to be unnecessary. It is a good point and the Board should write a letter to the homeowner that says I'm complaining about this person's commercial activity. We will say it is all within our guidelines as not commercial activity or it is all within the guidelines of commercial activity and we would say refer it to the county if it is commercial activity. We don't deal with it.

Bill Curley: I agree that what needs to happen is that you state the argument in the clearest possible way, the cleanest possible most concise way and present them to the community for a vote and say we will address this at the homeowner's meeting and we will vote.

Tina: Okay, I really don't think we have that kind of time in the time frame that--I think that the only thing we are going to be able to do at that annual meeting is voting on Board members.

Bill Curley: Personally, I think the next step is to clarify in so far as we can which is all God's creatures can do insofar as we can understand the issues to be as concise a way as we can.

Pam: You know what I think? I think there are only two people sitting here that we know for sure are going to be sitting here again in January. So I think, out of respect for an incoming Board, since we are at such an impasse, we better just sit on it.

Susan: I think we should because--

Patty: Actually--

Walt: In my opinion, a town hall meeting isn't going to be--after reading that letter Tina read, a town hall meeting is not going to be an informative meeting. It is going to be a convincing meeting. It is going to be two

attorneys convincing this community to go forward with a declaratory judgment. After reading that letter that is the only deduction that I can come out with.

Tina: So you don't think if we ask them--

Walt: They are going to give you answers in favor--I mean, if I brought an attorney in here and sat an attorney down to ask him questions, I think they would have a real tough time. But I am saying they are going to have a community here asking questions and they are going to be convincing this community to go to a declaratory judgment because that is what that letter says.

Tina: And you know, Pam, you are right. I am afraid to set up a new Board--and we've talked about this before--

Walt: I don't want to dump it on the Board.

Tina: I know, I don't want to dump it to a new Board but I don't want to set up--my goal of being on the Board is to get everything done that wasn't done years ago...get things taken care of so that I could hand a bible to the next Board member--one that I didn't have. I didn't have anything other than so-and-so said this and this and this. So--

Pam: Let me put it this way. It would not--I would not lose sleep tonight if we decided to stop the declaratory judgment.

Walt: I would sleep better.

Pam: Well, we can certainly vote on it.

Brian Cook: Just looking from the outside in, I think that the community members have spoken silently. You can take that whichever way you want.

Pam: Many of them have.

Susan: I think that they just don't care--

Tina: They don't care if we go forward and they don't care if we don't?

Do we make a decision tonight or are we just going to table this until our January 4 meeting because we are all too tired to make any decisions.

Tina: I am way too tired for this.

Pam: We can make a motion to kill it and let it die.

Walt: I guess we need to know--this is an interesting question. When--

Tina: We have another Board meeting in January before the homeowner--

Walt: So our votes will still count in January?

Tina: Yes.

Walt: Okay, that was my concern that if in January we are not going to be the ones making this decision, it is a mute point.

Tina: We have a Board meeting in January, the second Thursday then we have--

Walt: We need to take a vote at that next meeting.

Tina: Okay.

Walt: I mean, that is my opinion. We don't need to dump this on another Board.

Pam: Uh-huh. I see your point.

Walt: We have been exposed to the information. We don't have time to educate a whole 'nother Board about what is going on. We need to make a decision. Good or bad, I mean, we need to take a vote. I mean, it could be a yes, it could be a no, but we need to take a vote. We can get opinions from people in January.

Pam: Are we in agreement then that everything is still on hold and that is very important to me because I don't want more bills from people who are doing activity that is not approved.

Brian Cook: I think either way as a Board, whether you go or you stop, you are going to affect the next Board in some way because if you go with it, they are going to have to justify the money that is being spent. If you don't--

Tina: And if you don't, you are still going to have to--

Brian Cook: Justify why they didn't define what this stuff is.

Susan: I have only been sitting here for six months and I wasn't here when it was decided so I feel like-

Tina: You were thrown into it, Susan. That is a hard thing to be thrown into.

Pam: At the next meeting, we make two decisions or one, perhaps, whether or not to continue with the declaratory judgment and whether or not to have the informational meeting. Those are two separate items or they could be related, of course.

Walt: Well I guess the first one is a yes we can get rid of the second one and if the first one is a no, there is no problem.

Pam: Are we in agreement about that?

Patty: If the minutes say it was a covenant change, then--

Pam: But it wasn't. They are saying it wasn't.

Tina: Okay, well, we have the next meeting in January.

Motion was made to adjourn the meeting. Meeting adjourned at 10:05 p.m.

Respectfully submitted,

Walt Day  
Secretary