

**Pawnee Hills Community Association  
Board of Directors Meeting  
July 13, 2006**

Meeting was called to order at 7:10 p.m.

Board members present were Tina O'Bryan, Pam Schultz and Walt Day. (*Patty Sward and Susan Laessig added after appointment*).

Board: Motion was made to approve the agenda. Motion was seconded and unanimously passed.

Board: We have an appointment of two open Board positions. We have Patty Sward and Susan Laessig who have volunteered to fill our open positions. The Board is making a motion this evening to appoint Patty Sward and Susan Laessig to fill these positions until our annual meeting, which will be held in January of 2007. Do I have a second on this?

Bill Curley: You certainly have an objection.

Board: Wait... Do we have a second?

Board: I second.

Board: Is there any discussion?

Bill Curley: Yes, the timing--

Board: I'm sorry, Bill, can you please state your name and address -- We are trying to--

Bill Curley: Bill Curley, 1101 Pawnee Parkway.

Board: Thank you, and can you stand up?

Bill Curley: The timing just strikes me as rather odd. We have a homeowner meeting coming up in a couple two weeks here, a couple weeks, and I see no reason why we couldn't put the next Board to a democratic vote at that meeting. No reason whatsoever. There is no crisis that we have and the only reason I can see that we might be deciding to slip past the democratic process is because we want to put the people on the board, not that the homeowners might not approve that. I see no reason on the planet why this has to be done in this way.

Board: We will give the exact reason. There was an amendment --

Bill Curley: May do, not HAVE to.

Board: There is an amendment to the bylaws of the Pawnee Hills Community Association. A special meeting of the members of Pawnee Hills Community Association, held on June 24<sup>th</sup>, 2004, a majority of the members present in person or by proxy voted in favor to amend the bylaws as filed on Aug 14<sup>th</sup>, 2000, whereas, annual meeting and an additional homeowner's meeting, the regular annual meeting of the Association shall be held at the end of January where Board of Directors will be elected. There will be an additional homeowner's meeting held in the month of July. Therefore, the only time, per our bylaws, whereby we can elect Board of Directors, is at the annual meeting held in January.

Bill Curley: The therefore does not follow from the preceding presence.

Board: Bill, that's our answer. We have already sent out the stuff for the meeting. We have to go by our bylaws and our bylaws state that we can only elect Board of Directors at the annual meeting, which is held in January.

Bill Curley: And my answer to that would be that this Board has summarily dismissed every opportunity it gets to act democratically-- in other words, to reflect the voice of the community. It wishes, rather, to reflect its own voice and will do whatever it takes to maintain that grip on reality.

Board: Bill, are you saying we should act in opposition to the bylaws?

Bill Curley: I'm saying the opposition that the bylaws do not in any sense, deny us the right to hold a vote.

Board: Well they clearly do. Did you hear what she read?

Bill Curley: Yes I did--

Board: We have nothing else to share with you I don't think.

Bill Curley: Opposition is an argument...

Board: There was a bylaw change.

Board: There was a democratic decision by the community, which was held in June of 2004, if you oppose our appointments, we apologize.

Bill Curley: What I will do, of course, is submit my answer to that in writing since it is not going to go anywhere in conversations.

Board: We had discussion. We need to vote on the positions. All in favor of having Patty Sward and Susan Laessig appointed to the Board until January of 2007, at our next annual meeting when we can officially elect Board members, all in favor.

Board: Three 'ayes' and zero opposed. Minutes of the June 8<sup>th</sup> meeting, still need to have Board approval. We just got those worked on and we will have those forthcoming.

Communications from community members:

June 8<sup>th</sup>, 2006, I was handed, after the board meeting, a note from Stephen Gile to Pawnee Hills Community Association. "Please provide notice of meetings to me via e-mail at the following address from this date forward. Thank you, Stephen Gile." And Pam Schultz is going to respond to that piece.

Pam: We do not have e-mail capability. You are aware of what SB89 and SB100 says about it, correct? Okay.

Board: Are you okay with the answer that we do not have e-mail capability and therefore, we can not do that? Okay, thank you Stephen.

Board: Okay, the next one we received this June 10<sup>th</sup> via the mail, this is from Donna Bauerle to the Pawnee Hills Board of Directors in regards to our being in violation of having five dogs. "It seems the matter has rectified itself. Just a few days ago, our beloved lab, Tucker, passed away. We now have four dogs and are not planning on rescuing any others. I hope this puts an end to our situation. I am also going to get up on my soapbox for a moment and vent about what's been happening in our neighborhood and being turned in by one of our neighbors. It is a sad day when people start treating

each other in such a vindictive and hateful way. Are we not supposed to be neighbors and friends and look out for each other? It is especially important, living out here in the country that we should be able to count on our neighbors for help and support. Life is way too short wasting valuable time running around counting dogs and measuring fences. Why not do something positive with your time instead of doing something destructive and hurtful? Come on, people, our men and women are dying in Iraq and Afghanistan each and every day for our freedom, something actually worth fighting for. Is it worth it? Is it worth losing friends and severing ties to a good community? Get a life. --Donna Bauerle.”

June 12<sup>th</sup>, 2006, is a letter from Pawnee Hills Community Board of Directors to Jonathan and Barbara Stroh, 1246 Pawnee Parkway...(regarding violation of a declaration of amendment of protective covenants, restrictions on trash...) This second notice was sent.

June 16<sup>th</sup>, 2006, a letter from Bob Rowland, 1891 Pawnee Parkway to the Board of Directors...(regarding 5 dogs at 36620 Pawnee Court). We will be writing a letter to the people that live at 36620 Pawnee Court regarding this covenant violation giving them 30 days to comply.

June 20<sup>th</sup>, 2006, this is a letter from Bob Rowland to the Elbert County District Court... (regarding declaratory judgment in reference to commercial activity).

The next letter is a super lien on property address 1065 Osage Court. We did receive in the mail the lien paperwork regarding this property. It is in what they consider a super lien and when it goes to super lien, it means that we may or may not recoup our past dues that is owed on that property, so they are just notifying us that we are in line but we are not sure we are going to get anything out of it. I think, Sandy, you sent a copy of this to Susan Johnson of ABC Solutions. Is that the one you did or just the lien that you sent?

Sandy: Yes, we received paperwork asking for the amount of the assessment due in the past six months.

Board: Okay. So that is being taken care of. Then we have a copy of the lien also that was filed with the court.

The next thing that we have is a letter dated June 22<sup>nd</sup>, 2006, from Susan Oviatt of 1795 Shoshone Trail...(response regarding fence easement violation).

Board: What happened is we can't accept a verbal response, so we had to write Susan a letter that I talked about last month, asking Susan if she could just put in writing that the fence has been there for longer than a year and if she could just tell us when it was put up. So this is her response back to us saying the fence has been up for years.

Board: We couldn't do anything verbally, even though Susan told Judy, the Board had to request from Susan something in writing so that we had it in the file. The Board considers this matter closed.

June 22<sup>nd</sup>, 2006, a letter from Bob Rowland to PHCA... (regarding response to letter about outstanding dues payments). This whole matter has been turned over to our bookkeeper, ABC Solutions.

There is an order regarding attorney's fees and costs from the District County Court from Pawnee Hills Community Association v. Greg and Holly Haan. This order was dated the 16<sup>th</sup> of June 2006...(regarding costs following trial re: poultry). The decision is that we each pay our own fees.

We also have an order from the District County Court, Pawnee Hills v. Linda Lee. This order was dated June 16<sup>th</sup>, 2006...(regarding poultry removal). The court ordered the poultry to be removed by October 31, 2006.

Treasurer's Report:

Sandy Perry: Last month, the bookkeeper did not supply us with our budget report so I will go ahead and read those numbers for the end of May. Bank balances:

Checking: \$ 2,163.56  
Savings: \$28,358.56  
Reserve: \$ 8,238.59  
Unpaid Dues: \$ 2,141.75  
Total Deposited: \$ 7,341.64

And then we have State Farm CD account #1 at \$5,000 and State Farm CD #2 is \$5,000 at the end of May.

Sandy read all of the bills to be paid. Motion to approve the bills as read. Motion was seconded and unanimously passed.

Sandy Perry: The budget report for the end of June. Balances:

Checking: \$ 1,169.27  
Savings: \$25,071.46  
Reserve: \$ 8,973.54  
Unpaid Dues: \$ 2,303.11  
Total deposited: \$ 7,627.48

CD #1 \$5000

CD #2 \$5000

CD #3 \$5000

A few additional topics: We did receive the \$50 rebate for the copier and it has been deposited in our account. The audit for 2005 is complete and I have those copies for the Board members. The taxes for the Association have been completed and were mailed by certified mail today. Our first CD matures on the 20<sup>th</sup> of July and I just need to know whether we can roll that over and do another 90 day CD or if you want to pull that out.

Board: I make a motion that we go ahead and roll it over for another 90 days. Motion was seconded and unanimously passed.

Sandy Perry: And once it matures on the 20<sup>th</sup>, they will tell us the interest and then so at the next Board meeting I can tell you what that value was.

Sandy Perry: State Farm Insurance. We received a premium notice that it is due on August 14<sup>th</sup> and currently it is \$4,535, which is \$600 or \$700 more than it was last year. I had queried to the agent as to why, again, it is jumping so significantly. One reason they say is that it is just standard policy that everything increases in value a few percentages. And also, we do not have our claim free discount and the way the policy is written currently, it has a \$1,000 deductible. I also had queried with the agent to take quotes for the identical policy and a \$1,000 deductible. Also, a \$2,000 and \$5,000 deductible and I would like to look at those numbers and see if we are going to get a significant premium savings because, if you would put in a claim of any sort, we are going to lose our no-claim discount for three years which is going to penalize us so it may get us in a position of where we need to think about how major of an item are we willing to turn in. I still have not heard back from them, but this is due on the 14<sup>th</sup>, so, would it be possible to have this bill approved at the full amount and if I do not hear anything back and there is no discussion on whether we want to get any policy change in regards to the deductible, at least we can pay this, have this in place, and then if we need to do some changes, we can get a check back from State Farm for any kind of a difference--because this will be due probably really close--we need to send it off before the next Board meeting.

Board: I think we need to make a motion to go ahead and pay State Farm. What was the amount?

Sandy Perry: Currently, and this should be the high side, it is \$4,535.

Board: Okay, then we pay them that amount. Want to add anything to that, because we really need to pay the bill and then research and work on -- I make a motion that we pay State Farm's bill in that amount.

Sandy Perry: And this should be the maximum because anything that these quotes should come up with, such as increasing our deductible, if we choose to do that, should drop it. This should be max'd out.

Board: Okay, do I have a second?

Yes.

Board: Discussion?

Board: I am just really concerned about not holding State Farm's feet to the fire to get some answers. I really feel strongly that we cannot pay the bill without getting one question answered first. That goes back to previous conversations that you and I had off the record that they seem to appear to be extraordinarily disorganized and I would feel a lot more comfortable paying another State Farm agent if they can not come up with information that you requested a month ago. I'm just really disturbed about that.

Board: Okay, I will tell you what had happened in the past. When we decided to hold off on the bill, we still had to be covered so that--

Board: I'm just saying I think we need to go up to Jason and say, "Here is the drop dead date and if you don't have this information, I'm going to make a phone call to another agent..."

Board: Okay, so you are saying we can make the motion to go ahead and pay the bill. You are just saying, what agent we pay it to.

Board: They have not provided information to this Board through Sandy that is appropriate. We can pay the bill but we do not have to pay it to Jason's office because they have not provided information that was requested over a month ago.

Board: Okay, but the motion I have on the table right now is that --

Board: My motion is to modify that today. Yes, we need to pay the bill--

Board: The motion is on the table, so the motion is that we pay State Farm the \$4,535, and if they do not get the information to Sandy in the allotted time, that we will go to a different agent of State Farm.

Board: Actually, I thought we were saying not to pay the right amount--

Board: They have to receive that in August, correct?

Sandy Perry: It is due August 14<sup>th</sup> so I need to mail it at least by August 7<sup>th</sup>. So that gives me a few weeks to deal with our current agent.

Board: So our cut-off end date should be August 1<sup>st</sup>.

Sandy Perry: And her point is to switch agents if they do not respond. That is her point.

Homeowner: And then you have 6 business days between the 1<sup>st</sup> and the 7<sup>th</sup> to have them get the information to you.

Board: The motion that is on the table really is just to give Sandy the authority to pay the bill when she is ready to pay it.

Board: Okay.

Board: How is that?

Board: Okay, with all the conversation we have had.

Board: Is there a second? Yes. All in favor? Aye...Aye...Aye

Board: Five yeases. There you go, Sandy. It took us a while but we did it.

Sandy: I have copies of the audit for the Board.

Board: Thanks Sandy. Do we have an extra copy for the file?

Sandy Perry: I have three extra ones.

Board: Okay, perfect. Is that it for you, Sandy or did you need anything else?

Sandy Perry: I think that is probably it.

Board: If you think of anything, call us. The only question is, I need both of the treasurer reports for the newsletter as well as Walt needs copies for the secretary and the past due notice.

#### Facility Coordinator Report:

Board: Both Darren and Cynthia are out so Cynthia called me and gave me just a short report which they are working on three bids for the sprinkler system and are close to getting that complete. They have one bid for the electrician and they are still waiting for two others.

Board: Can you fill me in on the sprinkler system, I do not know about that.

Board: Okay, basically, what is happening is we had Darren and Cynthia hauling hoses around and we are paying them to water the lawns, water in the back, water the median. What has happened is, we were losing pressure and so they could barely run one sprinkler at a time. So, everything was kind of dying. What we decided to do--there is a huge problem because we do not have the pressure, they were running one hose at a time, things were dying. We have been talking for while "what if we did get a sprinkler system in here." We can run it at night more efficient; we will not be using so much water to water it because we can do it at night when it is cooler or early morning. Right now, they are watering it in the middle of the day or when they can get here, what is convenient and time permitting.

Board: We want to see what the cost is so we can compare it to what we are paying now in labor so we can make a good judgment and see which one would save us more money.

Board: What about the water pressure? Have you found anything about that?

Board: Yes, I guess we can talk about it now. We did have the plumber come out here and he did fix the leak. He had fixed the leak that we had in the pump house. We did spring a leak out there and the leak was in one of our copper pipes and, of course, in order to have copper pipes repaired, you actually have to have a licensed plumber whereas with just PVC, anybody can get that repair done, even Cynthia or

Darren could do it. So, he switched over from copper to PVC so that we would not have this problem again if a leak happened and we would not have to get a licensed plumber to do that repair again. What they found out is that the filter that was installed in the clubhouse was the wrong type of filter.

Board: The filter is either the pool one or the one in here, I'm not sure. Anyway, in fixing that, that helped our pressure.

Board: Is that adequate now?

Board: I think so.

Board: The question really is, what is going to be most cost-effective for the community?

Board: Absolutely. And so that's why we are collecting the bids, to determine if this is cost-effective. Maybe we can do part of it now, part later. Until we can get the bids we really won't be able to have a good discussion.

#### Committee Reports:

Architectural Control Committee (ACC) - As reported by Tina O'Bryan.

I have 1145 Pawnee Parkway, chain link fence plan was denied by ACC on 06/29/2006; 1145 Pawnee Parkway plan for asphalt driveway trench for electrical wire and flat area for above-ground swimming pool as approved by ACC on 07/06/2006; 35610 Cherokee Trail, plans of garage building and addition to existing dwelling approved by ACC on 06/04/2006.

Activities - As reported by Tina O'Bryan.

Karlene Herbrand handed me a committee report and the first part that she talked about is the Children's Rodeo on July 29<sup>th</sup> after the meeting so she is saying it is at the community barn/arena. Stick horse races and steer roping, etc. Trophies for winners, refreshments, lunch. Watch the mailbox shelter for the poster. This did not get into the newsletter in time so hopefully people would be able to get the poster and read about it at the mailbox to attend that, so it is after the Homeowner's meeting on the 29<sup>th</sup>.

The community garage sale is August 4<sup>th</sup> and 5<sup>th</sup>, part of the Elizabeth Chamber of Commerce Area garage sale, so it is part of that. Pawnee Hills will be included on the map that they give out. The Activities Committee will post signs at entrances but not on Highway 86 because the county does not allow signs on 86. Homeowners need to put up their own signs at the fronts of their driveways if they want anybody to show up for that.

Buildings and Grounds - Stephen Gile - no report.

Covenant Committee - Chuck Nichols - no report.

Directory - Sandy Perry - no report.

Equestrian - Stephen Gile - no report.

Newsletter - Tina O'Bryan

Patty had a great idea that in the newsletter we notify people of the deadline in order to get information into the newsletter, so our next one will have that information in it and then I will try to just throw in the garage sale notification because people will hopefully get their newsletter August 1<sup>st</sup> so that they can see that the 4<sup>th</sup> and 5<sup>th</sup> will be actually the garage sale plus there will also be posters at the kiosk.

Nominating - Pam - Nothing at this point.

Website - Sandy Perry

I have a training session set up for next Wednesday.

Board: The next item I have is a vandalism report. I felt the need that the community knows when we have vandalism and what has happened. So, on 06/13/2006, at 2:45 a.m., it was reported to the police that there were some kids over here in the swimming pool. They didn't make it over here to catch them but one of the teenagers left their wallet. We turned that wallet over to the police. Luckily nothing was damaged, but we haven't heard anything so apparently the police did not get a confession or the accomplices to that so that was dropped. On 06/16/2006, there was vandalism, there was a small tear in the pool cover and the cover holder, the wheels, they broke the wheel and they also threw the whole thing in the pool. But again, we did not catch that. On 07/06/2006, they broke the window over by this back door here. They took the ashtray there and basically put it through the window but apparently had cut themselves and they had also, on the gate out here, they forced that open and there was blood over there on the gate, but of course, we don't do DNA, so that is over. Like I said, I have decided to make sure that the whole community knows any vandalism that we have and we will just kind of keep those in the minutes and keep going forward.

A reminder that again, the Homeowner's meeting is set for Saturday, July 29<sup>th</sup>, at 10 a.m. Check-in is going to be from 9 until 9:55 and we will start the meeting promptly at 10.

We have from Hindman Sanchez, the changes with SB100. SB89 came in and this Board just received those changes as well as the ATC rules and regulations and the dispute resolution policy. The dispute resolution policy is a must. We have to have that in place by January 1 of 2007, so went ahead, since they are doing these other changes, to have them create that while they were at it. Again, we are looking at the changes. We will look them all over and then we will discuss them, let everybody know ahead of time when we will be discussing the SB89 changes at a meeting, have a discussion, and then we will go from there and get them out to the community.

The Qwest bill. We are getting local charges on our Qwest bill. Patty, you are still on there as the contact person. Would it be possible for you to contact them, Sandy will get you a copy of it, and find out why we are getting local charges on there and see what you come back with. That would be great. So it is Patty now instead of Pam.

Open Forum:

Board: Is there anybody here that has anything that they would like to--

Bill Curley: 1101 Pawnee Parkway - A couple things came up in the business- declaratory judgment, there is a letter from Bob Rowland about spending a bunch of money for declaratory judgment and him feeling that this was an evasion of the covenants. What are your thoughts about that and are we actually going to go for this declaratory judgment and what is it?

Board: That's a great question.

Board: Okay. Yes we are going for a declaratory judgment.

Bill Curley: How much is it going to cost?

Board: We don't know yet. We are guessing maybe between \$4,000 or \$5,000.

Bill Curley: And what is the purpose of it again?



Board: The purpose of it is to fix the bylaw that was filed with the county to clarify that, to find out what do we do with it?

Board: And what was the initial impedance for thinking we needed to do this? Why suddenly did this crop up when it has been sitting there dormant for x-number of years.

Board: Because we are getting complaint letters.

Bill Curley: Pardon me?

Board: Because we are getting complaint letters. We had a complaint.

Board: It was either from Bob or from Greg Haan regarding commercial activity.

Board: What is the bottom line that is going back-- I think before we got a complaint, you were working on a covenant and realized that the bylaws...

Board: No. There was already a complaint filed regarding commercial activity.

Bill Curley: Now I knew when we amended that bylaw that it would not alter a covenant. I knew that.

Board: Okay, but this is a past Board.

Bill Curley: No, there is only one Board. It is a corporate body. It doesn't matter who is sitting on it.

Board: Okay, well, past member.

Board: The institutional memory was gone. It wasn't fair. If the institutional memory is gone, that Board, I didn't know that that was a bylaw.

Bill Curley: And I'm sorry, we were looking at that as a bylaw change.--

Board: Yes, it was a bylaw change.

Bill Curley: We were also looking at it and we did not realize that the bylaws could not amend the covenants.

Board: No. We didn't realize it wasn't a covenant. We thought that this was a covenant change.

Bill Curley: How could you think that?

Board: Let's move on to the next issue because we can sit here and argue about this for 20 minutes. It is not going to get solved.

Bill Curley: We are spending \$4,000 to \$5,000 dollars--

Board: We are not moving on. Bill, can you ask your question again? One at a time, give me your question again.

Bill Curley: First, what is the specific impetus for the need for this attempt to get a declaratory judgment?

Board: We have to fix a past Board mistake.

Bill Curley: Why?

Board: Because--

Bill Curley: Clearly a bylaw change does not supercede a covenant. The covenant still stands so why do we have to do anything?

Board: When we went to court with the Haans, they specifically told the judge that the Board of Directors wasn't doing their job because they are not enforcing commercial activity. We had to explain to the judge that there was a bylaw change that was done in 1998 that past, future, current, all the Board members involved thought it was a covenant change. We have to file a declaratory judgment to fix this problem because we went from 1998 to 2006 believing this was a covenant change. The judge then asked us, PHCA, what are you doing about this? This is a problem, what are you doing about it? Our lawyers responded, "Your honor, we are filing for a declaratory judgment." He said, "Why haven't you done that yet?" She said, "Because I am trying to figure out how we subpoena 167+ homeowners to get it done." And he said, "That is a problem." And when we went to court on Linda Lee's case, she brought that same issue up and the judge said, "PHCA, where are you at with this declaratory judgment?" Our attorney said, "Your honor, we have filed it with the court." And he said, "Thank you." I know you may not think that we have to do this, but an attorney is representing us. We told her what the problem was and asked for her opinion. So we went to the attorney and said, "This is our problem. We are asking for your opinion." And it came back with the opinion that we have to file for a declaratory judgment.

Board: Can I first say something that might further clarify one of your questions of why should we even do it .

Bill Curley: The covenant still stands and now our choice is, do we enforce the covenant? There are lots of covenants that stand; many people are in violation of them. Do we actually intend to enforce them all?

Board: The point I want to make is that, based on this bylaw change, some people in the community commenced with commercial activity because they thought it was legal and right.

Bill Curley: A lot of people engaged in commercial activity before the bylaw change.

Board: Well, it could be, but some have based on this bylaw change. That is why we are so concerned about it.

Board: Okay, the Board feels that it is our responsibility to go with the declaratory judgment. We are all in favor of that and that is the direction that this Board is taking.

Bill Curley: Let me read you a section from a letter that was solicited by Patty when she was President of the Board. No this was to Denise, sorry. I got it from Patty. From a former lawyer, now deceased, Patricia Tinsdale. The preface of the Association... I won't read the whole thing...in Article 7, section 1; the Association is given the right to enforce the covenants. But the Association does not have this duty to enforce the covenants.

Board: What year was that written?

Bill Curley: It doesn't matter--

Board: Sure it does. The laws change. The rules change.

Bill Curley: That has not changed.

Board: Was that letter to the Board?

Bill Curley: 1994.

Board: Was it filed upstairs?

Bill Curley: Presumably.

Board: And you have a copy of it?

Bill Curley: Yes indeed.

Board: Bill, you know what? While I am thinking of it, do you have the information that you received from upstairs through Patty regarding the Covenant Committee stuff? Do you have that documentation?

Bill Curley: I don't know what you are talking about.

Board: When you received the information from me regarding the last covenant change committee that you worked on so hard, did that information come back to the community so that we could file it?

Bill Curley: Which information specifically?

Board: There was some history that went out, I think there was a couple of big files of history and I know you had quite a bit of history just for --

Bill Curley: I took no files whatsoever. I took no files out of the building.

Board: Okay, because I was under the impression that files were lost.

Bill Curley: And again, in recommendations, your existing covenants and bylaws are adequate for the job. I would recommend that ...we won't go through the whole thing...enforcement issues specifically related to non-permitted animals and fencing across bridal paths and based upon my review of your current bylaws, I believe that the Association may, but is not required, to enforce the covenants. And that is what the covenants say. And that is the language of the covenants. Somebody pointed out to me, "Where in the covenants does it say the Board must enforce the covenants?"

Board: Does she state anywhere in there if a violation is turned in, what the Board has to do?

Bill Curley: Absolutely not. That is entirely up to the Board what it does. Now the word--

Board: I don't mean to interrupt you, but you are talking about a legal document which I have no idea how you got it, but that's okay-

Bill Curley: It was given to me by Patty. That's how I got it.

Board: Do we have a copy of that upstairs?

Bill Curley: We must have.

Board: I don't know if you've got the original. I don't have any, so--

Bill Curley: I can give you a couple of my copies.

Board: That would be wonderful so we have that filed upstairs. But my one point that I would like to make is that is something that was done in 1994 by a past attorney, now deceased, unfortunately, but I am saying that you are quoting stuff that is years old and not the current attorney that we have.

Board: It is an opinion.

Bill Curley: The covenants state that you may enforce the covenants and anybody here can enforce the covenants if they like.

Board: That's right.

Bill Curley: But the Board may but is not obliged to. Now the Board has arrogation to itself, the obligation to enforce the covenants, if and when any homeowner complains about any other homeowner, and says they are in violation, and at no other time, the Board has said, "We don't touch it until somebody complains." And that is the same thing as saying "I'm going to take the onus for it. I'm not going to take the rap. I am going to lay the rap on somebody else but I'm going to enforce the covenants."

Bill Curley: I'm suggesting that you can't have it both ways.

Board: I think we have your statement. Do you have another statement to make?

Bill Curley: No, you haven't heard my statement yet. You can't have it both ways.

Board: Bill, we are enforcing all the covenants that are brought to our attention. Equally. That's all we can do.

Board: If we aren't aware of them, we can't enforce them.

Bill Curley: Do we believe that the Board has an obligation to enforce the covenants as written.

Board: Yes. No question.

Bill Curley: No question about it?

Board: None.

Bill Curley: Alright. So it doesn't matter where the information comes from.

Board: Right.

Bill Curley: You are going to enforce all the covenants. You know how much that is going to cost?

Board: A lot.

Bill Curley: No wonder we have assembled already a war chest of \$45,000. We got that tucked away to use. Near as I can read the treasure's report because we are going to need every dime of that and more. There will probably be special assessments. Do you think --how many buildings do you have on your property?

Board: You don't have to answer that. You know what, Bill—

Board: You know the answer, you know, we've had this discussion; everything on my property has been approved.

Board: Are you turning Susan in? Are you making it official?

Bill Curley: That doesn't give you permission to break the law.

Board: Bill, stop. If you have got a statement to make, please make your statement and we need to move on.

Bill Curley: Okay, there are a couple of other things. My statement is that on this particular topic, is that the Board has been arbitrary in its enforcement of the complaints that come forth, knowing full well that it can only get the small stuff and it can not get the big stuff and so it is deciding to, choosing to ignore the covenants. And it is choosing to allow certain violations to exist. There is something called "reasonable expectation." If I were to drive onto Pawnee Parkway and drive past the mailboxes and look to my left, and I was thinking maybe I would buy here, I would see some guy down there with four cows and two goats and 20 turkeys and later find out that he was a member of the Board, what is my reasonable expectation?

Board: He no longer lives here.

Bill Curley: That doesn't matter

Board: Yes it does. He was under so much pressure from the Board and from the community--

Bill Curley: There was once a president of the Board who had two llamas on his property.

Board: We can't address that--

Bill Curley: Reasonable expectation. I come on here saying, "Do I want to live here?" I'm not a lawyer.

Board: Wait, wait, wait, stop. Bill, we are going to give you about two more minutes, okay, so if you can wrap it up in another minute.

Bill Curley: This topic is, is this the notice that was passed out to the community about the fee assessment for late fees and things like this--is this it?

Board: Is it our policies and procedures?

Bill Curley: Is this the notification to everybody about late fees?

Board: No. Our policies and procedures is your late fee notification and that you will be charged a late fee.

Bill Curley: And have I received this?

Board: Yes, everybody--

Bill Curley: Did I receive a copy of that?

Board: That's not the schedule.

Bill Curley: What is this?

Board: That is the fee schedule. Your original notification is our policies and procedures that was driven by SB100 that you received in April of 2006. This is just a draft fee schedule. Those fees can go up or down.

Bill Curley: I'll take your word on that, I don't recall receiving that.

Board: Do you need a copy of the Policies and Procedures? We have extra copy upstairs.

Bill Curley: I'm sorry this is something that the Board released, Policies and Procedures?

Board: It will tell you that there will be fees incurred but it doesn't tell you how much.

Bill Curley: Does it give me a time frame inside this document anywhere of--I don't know what my obligations are with this. I have no idea what my obligations are.

Board: Sandy, can you get him a copy of our Rules and Regs, an extra copy that's up there?

Board: Thanks, Sandy.

Bill Curley: Well, the upshot of this from a human standpoint is that, like, if I'm out of town for four weeks and I don't have agents at the house dealing with the mail and all that stuff, I can come back with a \$300 bill, lien hold on my house. It just strikes me as a little nuts because I've been living in this community for 12 years and I have been late a few times with some frequency, but I have always paid and I think that's true of almost everybody. Seems like a punitive way to get at those people who decided that they do not like the current fee structure.

Board: Okay, Bill, I'm going to give you about 30 seconds more and then we have to wrap it up.

Bill Curley: Alright, we'll end again with Ms. Tinsdale here who writes a very cogent, very clear letter here. The covenants and bylaws site a balance between the (A) need for flexibility in their interpretation and enforcement and (B) the need for some defined standards to provide owners with notice of what is expected of them and to limit appropriately the discretion granted to the Board of Directors and the architectural control committee. You are exercising no discretion. You are exercising no judgment. And you are paying no attention to the needs of your community.

Board: Okay. Thank you Bill. Is there anybody else that would like to speak?

Stephen Gile: Yeah, I'll speak. Only for about 15 seconds though.

Board: That'll be good. Thank you. Stephen, did you want to go to the podium or do you want to just speak real loud. I need your name and address.

Stephen Gile: Stephen Gile, 35712 Cherokee Trail.

Board: Okay, I'm sorry, you can't come to the podium or you won't go to the podium? I don't know--  
You have such a soft voice.

Well, everyone has been asked to, so we need to be consistent.

Board: Yeah, that's true.

Stephen Gile: Has anybody read this amendment to the bylaws?

Which one Stephen?

Stephen: The one that was given to the county clerk on 08/12/2000.

Board: I'm sorry, are you giving a statement or are you saying--

Which one is it?

What's the topic?

Stephen Gile: It is the one with the declaratory judgment.

Board: Okay, you are asking us have we read it? Yes, we have.

Stephen Gile: Number five regarding commercial activity. Commercial activity, it says here, all activities in the common area is what it is addressing. It says--you know, the covenants used to allow, you could train horses at the barn.

Board: No.

Stephen Gile: Yeah. I got it right in there. It surprised me when I saw it too, you were allowed to do that. But when we did the new covenants in 1977, that was taken out, or 1983, or whenever it was.

Board: Okay, you are talking about the different filing?

Stephen Gile: Yeah, they took some stuff out but they used to be--I could train horses over there.

Board: Okay.

Stephen Gile: But anyway, what it is saying here, it says all activities in the common areas shall be for the residents' personal use and/or training or animals. No commercial activities in the common areas shall be approved. No business signs shall be permitted on any structure and non free-standing business signs shall not be erected on these lots.

Board: Do you know what "common area" means? "Common area" means you can't have commercial activity on these five acres here at the clubhouse and you can't have at the barn or the arena, that five acres.

Stephen Gile: Right. But if I have my office at my house and I work out of my house, if I don't have a storefront there, I wouldn't have commercial activity there.

Board: What's your point?

Stephen Gile: What if we spend thousands of dollars on something that doesn't really need to be done?

Board: Home occupations shall only be allowed as permitted by Elbert County regulations, section... in our-

Stephen Gile: Do you know what home occupations are in Elbert County? It talks about piano lessons and riding lessons--

Board: It says in our covenant, it says "No commercial activity whatsoever." In the change, it said you can have--in the bylaw change, it said you can have home occupations, such as commercial activity, as long as it falls within the Elbert County Rules and Regs. If we go back to original before this change, you could not have commercial activity. The reason why we are doing this--

Stephen Gile: No store, office, or other place of business of any kind shall be erected or permitted upon any of the residential lots and no commercial activity shall be permitted. In other words, I can't put an office building out here.

Board: Okay, so the only way I can answer your question, it may not be the one you are looking for, is-- the only way I can answer that is that we gave this problem, handed the problem over to our attorney and asked for an opinion, and our attorney came back and told us this is what we need to do and this Board discussed it, made a motion to second, and unanimously passed that we continue with the declaratory judgment.

Board: The proposal is to basically say what we did in 1998, if we can get 112 yeses on it and get it passed as a covenant change, we don't have to do a declaratory judgment.

That's as simple as it gets. But if we can not get 112 people to say yes--we have already filed for the declaratory judgment knowing that we tried it in January and we didn't even have a quorum to hold the meeting. We need 51 to hold the meeting, we had 39, so there is no way near we got 112. We thought we would try it again in our July meeting, so we are continuing to try but in the meantime, we have to fix this.

Board: Got it. So we are trying to take it to a vote.

Board: But we have never had 112 yeses or anything, so.

Board: We are going to try it one more time, hopefully in August, doing a mail-in ballot.

Board: Oh, that would be sweet. We can do mail-in ballots?

Board: We researched that and realized that we can do it if we do it within the law and we have researched that, Pam has researched that, and we will be able to do a mail-in ballot, but again, it has be done right.

Board: But we have to put a time frame on it. In other words, there has to be deadline that we have to receive them by a certain time, so we are working on that. Hopefully, maybe in August or September we will try it one more time with the mail-in ballot. The declaratory judgment is going to take a little while. It is in the courts right now but it is going to take a while to get done. But we are really giving it two more times. One at this meeting and another try doing the mail-in and see how close we get. And if we are close in our numbers, there is a possibility that we can try to rally the people.

Board: So that's going to take some work on our part.

Bill Curley: I'm just saying you have opinions and an agenda that you are stressing very hard. Now that doesn't mean I consider you dishonest or impeachable in any way. You have an agenda, you push it very hard. There are going to be people pushing back and I want you to realize that we are honest as well and we are not impeachable. We simply have opinions that are different than yours--

Board: Absolutely.

Board: Anyway, let's stop. Anybody else have anything else to say?

Motion was made to adjourn the meeting. Meeting adjourned at 8:34 p.m.

Respectfully submitted.

Walt Day  
Secretary