

WRHOA May 18, 2013 Meeting Minutes
Monument Library

Call to order 11:45

Attendance:

Board Members-

Brian Freese, Jack Windeler, Bruce Froehler, Ken Nord, Wayne Gardner, Nancy Smith

Treasurer- Kathleen McCormick

Homeowners-Joe Felchlin, Paul Smith, Matt Shepardson, Joe Mentek, Wilma Steenbergen, Chris Steenbergen, Jim Hansen, Rosalie Keefe, Kathy Hansen, Pat Criscito, Mike Criscito, Jim Keefe, Robert and Myrna Jepsen, Roger Carleton, Al Maurer, Eric Peterson, Michael Sabath, Sonja Sabath, Gerry Major, Richard Major, Gil Geisz, Janet Geisz, Linda Celestre, Katherine Froehler, Rhoda Musella, Mark Schwalm, Matt and Lauri Mask, Lynn Mattie, Pam Ponsetti, Gary Carlsen, Carroll

Brian Freese recognized Katherine Froehler who read a statement...(copy attached))

Brian Freese responded stating "conflict of interest" were not his words in his ruling, citing CCIOA

laws.

Brian Freese stated if the "complaining party" is a Board member, or if a Board member stands to gain financially, CCIOA states there is a "conflict of interest". Brian noted a realtor, Lisa Gilbert, stated she had 3 clients who walked away from looking for homes in Wissler Ranch due to the covenant which prohibits poultry. Brian agreed when one buys in Wissler Ranch, they sign a contractual agreement. But, there are people on both sides of the issue. Brian noted it is no longer an issue if a covenant has been violated, that has been established. The issue now is how to enforce the covenant. He further cited CCIOA law concerning use violation and statute of limitations.

Discussion from homeowners ensued.

Bruce Froehler pointed out the Board has a legal responsibility to enforce covenants as written now, pointing out the entire Board voted in March to enforce the violated covenant.

Covenant Review Committee- Joe Felchlin wanted two volunteers removed due to their "narrow minded views"...discussion ensued Brian Freese noted he asked Pat Criscito to recuse herself from the committee. Brian Freese did not speak to Rhoda about her survey.

Noted by several homeowners that acrimony not new to WR Boards. Everyone signs on to covenants upon purchasing in WR. There is a legal process in which to change or amend covenants.

Jack Windeler stated his job is to keep us on sound legal basis. He stated an option is to not enforce a violated covenant if the process is too complicated or expensive. Taking no action, he stated, is a covenant enforcement action and taking that action does not change the covenant. He further cites CCIOA substantiates that there was a conflict of personal and financial interest in two Board member's votes.

Jack Windeler stated we take a huge financial risk in pursuing action against the Criscitos. He stated in all probability WR will lose in a lawsuit, therefore we should enforce by taking no action. Bruce Froehler countered by stating the Board attorney's advice was just the opposite: that we stand a much better chance of being sued by allowing the chickens to remain because it is a direct violation of the covenants. The Board attorney further stated our case in court is much stronger by enforcing the covenants rather than ignoring them. When asked for her lawyers opinion in writing, Pat Criscito stated her five (5) Attorneys gave her nothing in writing as she has not paid them for an opinion. She stated they told her she was grandfathered in and there is not a use violation.

Mrs. Ponsetti asked if homeowners were suppose to be notified before a meeting of the agenda items. Brian Freese stated we will be doing just that. Mrs. Ponsetti also noted she would like unsolicited opinion letters from homeowners to cease coming to her home.

A homeowner stated there are other chickens in Wissler Ranch. She feels the Criscitos should be allowed to keep their chickens. Bruce Froehler followed up stating covenants must be enforced and the Board is charged with that duty. Where would she like it to stop...horses, pigs, etc?
Mr. Peterson asked for an explanation of the timeline of the covenant violation concerning the chickens. He recommends enforcing the covenant and if the homeowners want to change the covenant legally, so be it, but as of now, the law is on the side of covenant enforcement.

Brian Freese recommends waiting until the annual homeowner meeting in October, hearing Covenant Review Committee recommendations. Have them reviewed by an Attorney, and he does not want Hindman Sanchez to be the law firm to review the covenants.

Pat Criscito is said to be undertaking a move to change the covenant prohibiting poultry, and to allow poultry to be "pets". She will need to get 2/3 votes of all homeowners and mortgage holders to change the covenant.

A homeowner asked if this Board would vote on retaining Debra Oppenheimer as the WRHOA Attorney. Due to Brian Freese's letter to Hindman Sanchez, the law firm will not be representing the WRHOA unless a Board decision is made. No vote was taken by the Board concerning this matter. Lisa Gilbert was given the floor to state she is a realtor and she currently has three clients who will not look to purchase a home in Wissler Ranch due to the covenant prohibiting poultry. She believes this indicates WR home values are decreased by having this covenant prohibiting poultry. She stated these buyers are looking in the 4-700,000 dollar range.

A homeowner question why the March vote by the Board was invalidated by Brian Freese. The homeowner stated even though Brian Freese invalidated two Board member's votes, there still was a quorum as the full Board voted. Jack Windeler argued he was not present. It was pointed out he gave his proxy to vote in abstention to Brian Freese. After the vote was taken, Jack arrived to the meeting. Brian Freese stated only four (4) members were present at the March meeting. It was noted five (5) were physically present for the vote...Jack's vote was given in proxy before he arrived after the vote was taken. Jack Windeler then stated there was no vote to deny the variance at the March meeting. Bruce Froehler produced an email he received from Jack Windeler which stated Jack accepted Bruce's vote to deny the variance. Bruce Froehler noted that Brian Freese had sent a letter to Hindman Sanchez two days before the April WHOA meeting, which in essence fired the WRHOA Attorney, without the Board's notification nor consult.

Kathleen McCormick presented her treasurer report and read her opinion of Hindman Sanchez billing. (Treasurer report attached)

Brian Freese stated there will be a June meeting on the 3rd Saturday and recommends an Attorney be present to give explanation of CCIOA laws. Brian stated he has not consulted with another Attorney.

Mr. Carlson suggested this all could be straightened out with a vote of all homeowners in Wissler Ranch.

Mr. Major pointed out an announcement must be given to all homeowners before a vote is taken.

Mrs. Celestre read a statement, written by her husband John. Attached (copy attached)

Mrs. Celestre asked about the Hindman Sanchez bill...Brian Freese stated "we" kept it to "ourselves" for a while.

Nancy Smith noted she had no information about the bill and that she is a Board member...Brian Freese stated he didn't know about the bill either...discussion ensued.

Brian Freese stated there will be a vote in June of homeowners. Jack Windeler stated two member's votes were disqualified "officially". It was argued that only Brian Freese and Jack Windeler made that determination...it was not voted on by the Board.

We ran out of time and the Meeting broke up at 1:10

June Agenda item:

Wayne Gardner had a DRC report to present, however, he, did not have the opportunity to give his presentation. His report is attached to these minutes in hopes that at the June meeting, he will be afforded the time to advise Wissler Ranch homeowners of what is happening with DRC projects and ongoing DRG information.