

Arapahoe Ridge Homeowners Association

Board of Directors Meeting

October 4, 2006

MINUTES

I. CALL TO ORDER

The regular meeting of the Board of Directors was called to order at 7:00 p.m. at 3287 McClure Drive. Board members in attendance were Monica Kash, Diana Walley, Jack Fitzpatrick and Christine Ferguson. Community Association Manager Gwen Rohrer was present representing Hammersmith Management.

II. OPEN FORUM

There were no homeowners present to address the open forum.

III. FINANCIALS

A. Financial Statements – The financial statements for the period ending September 30, 2006 were reviewed. As of month end, the US Bank operating account had a balance of \$16,843.10, as \$100,000 was transferred to open two (2) new operating accounts. The total assets for the community were \$725,132.31.

Hammersmith Management indicated that \$40,000 had been miscoded to the social account. Financials will be revised and sent to the Board.

B. Aging Report – Delinquencies reflect a month-end balance of \$16,431.22.

IV. NEW BUSINESS

A. 2615 Freeman Court – Sports Court Appeal to the Board – In accordance with Section 4.16 of the Covenants, homeowners Steve and Laurie Puckett provided written notice of appeal to the Board of Directors on July 24, 2006 for the denial of their application for a sports court in the rear yard. The Design Review Committee denied the application July 1, 2006.

In accordance with Section 4.16 of the Covenants and Section 10 of the Bylaws, the Board referred the appeal to the Tribunal for recommendations. The Tribunal Hearing was held on September 14, 2006. The Tribunal provided written recommendations to the Board on September 19, 2006. The Board received advice from legal council to conduct the Tribunal Hearing.

Board Member Bill Barnett was unable to attend the meeting due to prior commitments. The Board reviewed his vote not to approve the sports court. The three (3) focal items Bill presented in his written statement were discussed in depth.

1. Bill presumed the Pucketts had violated the covenants by bringing an attorney to the Tribunal Hearing. The Board and Hammersmith Management were unable to determine how this specific action is in violation of any governing document of the Association; therefore Board Members in attendance decided it would not be a point of interest in the final decision on the appeal.

2. Bill indicated that the Pucketts violated the covenants by erecting a basketball court without the prior approval of the Design Review Committee and their disregard for the governing documents cannot go unnoticed and ultimately rewarded. Although it is true that the Pucketts began construction without approval, they immediately halted progress upon notification that they must receive approval, and upon approval completed the project. The Board Members in attendance decided it would not be a point of interest in the final decision on the appeal, as no residents are penalized or rewarded for not receiving approval prior to commencement of improvements. Unfortunately, it is a behavior that frequently happens in all community associations and if the Owner has taken the proper steps to correct, there is no cause to penalize them.

3. Bill indicated that appointment of three (3) DRC members occurred at the August 25, 2005 Board Meeting. The wording reads specifically under Management Report "The management report was accepted with the additional information regarding the listing of the Design Review Committee members including Bill Barnett, Carol Camallo Steven Ditlow and Bob Davenport." Hammersmith Management consulted with legal council regarding the presumed appointment and determined that this was not an official appointment of Committee Members. Bill's written statement also referenced the September 2005 Board Meeting Minutes; neither Hammersmith Management or the Board could locate any points in the minutes of that meeting that referenced appointment of Design Review Committee Members. Board Members in attendance decided it would not be a point of interest in the final decision on the appeal.

The Board decided the most appropriate method of review for the appeal would be to address each item on which the Design Review Committee based their denial, and the recommendations the Tribunal made to the Board.

Article 3, Section 3.4; No Noxious or Offensive Activity. The Board interprets this covenant to apply to those activities that are "not expected" to occur in a community. The Board feels that if playing basketball on the sports court were to be considered a noxious or offensive activity, then in theory, trampolines, play structures, back-yard bar-b-ques, etc. must also be considered a noxious or offensive activity, as any one Owner would have the right submit a claim against that offending Owner. In addition, the Board could not distinguish the difference between the levels of noxious or offensive activity of a sports court in the rear yard opposed to the basketball hoops permitted under Section 3.30 of the covenants.

Article 3, Section 3.5; Annoying Sounds or Odors. The Board could not make a distinction of the sounds or odors emitted by the sports court to be any more or less offensive than those basketball hoops permitted under Section 3.30 of the covenants.

Article 3, Section 3.7; No Unsightliness. The sports court base is not visible without looking over the privacy fence that screens it. The post that the hoop is set on is visible above the

fence line; however, the Board does not consider it any more unsightly than the play structures and trampoline nets that are visible above a fence line.

Article 3, Section 3.30; Basketball Hoops. The Board determined this covenant does not apply to the sports court; therefore there was no discussion. The Board received legal advice, as well as direction from the judge at the preliminary injunction hearing that the article does not apply.

Article 3, Section 3.1; Play Equipment. The Board reviewed this covenant in particular, as a sports court may be easily interpreted to represent "play equipment", as it shares many of the same qualities that describe play equipment. If the sports court were considered play equipment, the court under discussion would be in compliance with this covenant, as it has been erected within a fenced area.

Article 4, Section 4.6; Criteria for Approval. The Board agrees with the interpretation of the Tribunal in its entirety.

The Tribunal made two (2) recommendations to the Board of Directors regarding the appeal.

1. Overturn the Design Review Committee's decision to deny the Puckett's sports court.
2. Allow a variance for the Pucketts to plant trees, as proposed in the denial from July 1, 2006, less than five (5) feet from the fence to partially obscure the sports court from view. The Pucketts should be encouraged to plant the trees as far as possible from the fence in order to adhere as closely as possible to the design guidelines.

Diana made a motion to adopt the Tribunal's recommendations. Christine seconded the motion. The motion carried unanimously by those Board Members in attendance. Bill submitted a vote not to approve the sports court in advance of the meeting.

B. Annual Meeting Preparations – Monica will provide left-over water from the Flatiron Meadow Community Meeting to the Annual Meeting. Diana and Christine offered to bring the cookies and water. Hammersmith Management indicated that signs would be made to install at each entrance location. Diana volunteered to prepare and present an overview of the year. Hammersmith Management will walk-through the proposed 2007 budget.

C. Response to Flatiron Meadows – Monica drafted the response to the Town of Erie based on information compiled from residents at the meeting with Flatiron Meadows. She will forward the draft to Christine for final preparation and Christine will deliver it to the Town by the deadline of October 10, 2006. Christine will incorporate feedback from Bill Barnett into the Arapahoe Ridge HOA response to Flatiron Meadows prior to submitting it to the Town of Erie. The Board wishes to post both the response letter as well as the Flatiron Meadows PDF it received from the developer to the arhoa.org website for reference by homeowners.

D. Executive Session - The Board entered into executive session at 8:35 p.m. to discuss the lawsuit filed against Arapahoe Ridge by Scott Salzman. The Board exited executive session at 9:00 p.m.

V. ADJOURNMENT

The meeting was adjourned at 9:10 p.m. The next regular Board of Directors meeting has been scheduled for November 13, 2006 at 7:00 pm at the Arapahoe Ridge Clubhouse.

Attachments: Board Member Bill Barnett's Vote on the Sports Court Appeal
Tribunal Recommendations