

BOARD OF DIRECTORS MEETING EXECUTIVE SESSION

SAGE PORT HOMEOWNERS ASSOCIATION

JULY 25, 2006

Present were Steve Coffin, Mark Hesse, CJ Meyer, Pat Ryan, Paul Stremick, Leonard Westlake, Sandy Anderson, and from the Document Review Committee, John Koller and Bill Smallwood. Meeting was called to order at 7:05 p.m.

This meeting was initially called to address the intermediate results of the Document Review Committee and to discuss the recommendations from counsel. Given this was the first time the entire board was present in several meetings, it was decided the first order of business was to address open concerns expressed by CJ at the previous meeting regarding the status of Steve Coffin's intention to resign. Steve clarified by stating he was tendering his resignation, effective immediately, as president of the board, and as a member of the board. Leonard said the HOA By Laws permit the board to vote to replace a resigning member.

Sandy Anderson nominated Bill Smallwood to fill this vacancy, Leonard seconded. Leonard, Pat, Paul and Sandy voted to approve, Mark and CJ voted against. Nomination passed.

Leonard announced his resignation effective immediately. He and his family are moving out of Sage Port soon, therefore, he will no longer be eligible to serve on the board.

Sandy nominated John Koller to fill this vacancy, Pat seconded. Bill, Pat, Paul and Sandy voted to approve, Mark and CJ voted against. Nomination passed.

As this was not associated with an annual election, it was decided by a majority of the board to vote for and fill the vacant positions of president and vice president at this meeting.

Pat nominated Bill Smallwood as president, John seconded. Pat, John, Paul and Sandy voted to approve, Mark and CJ voted against, Bill abstained. Nomination passed.

For vice president, Sandy nominated John Koller, Pat seconded. Bill, Pat, Paul and Sandy voted to approve, Mark and CJ voted against, John abstained. Nomination passed.

It is noted that during the above election process, both Mark and CJ voiced their objections to the process taking place at this meeting because the item had not been announced when the meeting was called. The remaining members were in favor of filling the two board vacancies, allowing a smooth transition and thus enabling a full board and slate of officers to proceed with the board's business matters.

### Covenant Changes:

Discussion followed regarding the failure of the previous Document Review Committee to effect changes in the Covenants, and whether or not there remains enough time to accomplish this by the August 12, 2006 deadline.

CJ asked what Bill would like to accomplish, to which he responded he would like to see the covenants changed so that they do not have to be amended to put people on the Architectural Control Committee. Bill stated further that what is of record in Douglas County is from 1986, and it has never been brought forward. He feels this should be corrected and proper assignments made; he would like to help make this all legitimate and be able to present to the home and lot owners something they can vote on that would be durable and make sense. The Document Review Committee presently does not have an editable copy of the covenants as revised by the previous DRC, and requested Mark to email to them the Word copy containing the revisions for the present committee to work from. An attorney has not reviewed the proposed changes made by the now defunct DRC, therefore it is not known whether the problems existing in the past have been addressed and corrected. Given the lack of funds and insufficient time to go through the necessary steps to effect covenant changes, it seems doubtful the August 12, 2006 deadline can be met.

CJ said she has been contacted by some lot/homeowners from Sage Port Filing 4 and they are interested in joining our HOA. Mark said Filing 4 has covenants that were recorded the same year ours were, 1971. If Filing 4 were to join our HOA, the association documents, not our covenants, would have to be changed to allow this.

John again, requested Mark to send a clean, non-password protected copy of the Sage Port spreadsheet history dating back to 2002, which was provided as part of the records to his board in 2003.

Meeting went into executive session at 7:55 p.m., no recording was made, no notes or minutes taken.

Meeting came out of executive session at 9:32 p.m.; recording, notes and minutes were resumed.

The Document Review Committee has made a recommendation to the Board to address the misappropriation of funds issue. Counsel had advised that according to the governing documents, the ACC is improperly constituted, and there is no legal foundation for their existence in their current form. If we are going to go forward, the ACC needs to be in compliance. Question was raised, do we do nothing at all and face these problems again in the future, or do we bring the ACC into compliance once and for all. Also, there is a difference of opinion between the past and present boards as to the legality of giving two-thirds of the HOA's treasury to the ACC. The past board feels their action was reasonable; the present board and counsel feel the action was not. Committee recommends presenting the issues to the community, stating what needs to be fixed and why.

Discussion followed regarding the transition history of ACC members, and the problems uncovered, namely that since 1986, the community has not voted members to the ACC as required by the governing documents. John pointed out due to the lack of proper recording of ACC members with the County since 1986, the ACC, HOA and the entire community are at risk should any builder decide to pursue legal action against us. Further, the lack of proper, legal documentation gives their insurance carrier an opening to deny coverage and increase the risk even more. Consensus of opinion is the problems and legal standing need to be fixed; as well as community understanding and sentiment regarding the ACC, HOA and the spending of the members' monies, which for the past few years, has been mostly on attorneys' fees.

It was decided previously, by motion and vote, to pursue the voluntary return of funds to the HOA. Regardless whether the funds are voluntarily returned, the board has been alerted to a liability, which needs to be addressed, and these two matters may be pursued in parallel by the board. The manner in which the ACC responds to the attorney's letter requesting the return of funds, will dictate to what extent the board will have to go public to the community with these issues.

Mark raised the question of the HOA having been legally established in 1986. It was pointed out the HOA is strictly voluntary, it can be changed, added to or subtracted from, but the ACC cannot be changed without a vote of the landowners.

Motion was made by Sandy to accept the Committee's recommendation (*excerpt shown below*) to address the legal status of the ACC, and to pursue the previous board's alleged misappropriation of funds, while pursuing, in parallel with, the motion passed at the last board meeting to continue the request for voluntary return of funds. Bill seconded the motion. Bill, John, Paul, Pat and Sandy voted in favor, Mark and CJ voted against, motion passed.

*DRC Recommendation (excerpt from committee document): Following advice of counsel the board should vote to pursue a parallel course of action insuring the recovery of the misappropriated funds and the removal of the improperly constituted members of the ACC pursuant to the requirements of the Sage Port Covenants. With advice of counsel, the board and committee should:*

- a. Prepare a request for injunctive relief.*
- b. Determine the information to be provided to the community regarding the recent activities.*
- c. Create a slate of three lot owners to replace the current ACC.*
- d. Determine and create the required documents to solicit the votes of the lot owners to enable the replacement of the current ACC members.*
- e. Mail, collect, tally and formally record the results of the vote of the lot owners with the county.*

Pat made a motion to adjourn, John seconded, all were in favor, meeting adjourned at 10:03 p.m.

Respectfully submitted,  
Sandy Anderson, Secretary