

**LAKE MOOVALYA KEYS II
Annual Meeting**

**June 1, 2013 – 9:30 A.M.
Christ's Church on the River
9098 Riverside Drive
Parker, AZ 85344**

CALL TO ORDER

President Gary Svider called the Annual Meeting of Lake Moovalya Keys II to order at 9:30 a.m.

PRESENT

*President: Gary Svider (23/24)
Vice President: Todd Cramer (25/26)
Secretary/Treasurer: Wendy Wynkoop (28)
Board Members: Robert Gory (71/72), Heather Wilson (58)*

OTHERS PRESENT

*Recording Secretary/Bookkeeper: Sue Thomson
Legal Counsel: John C. Churchill*

**PROPERTY OWNERS
PRESENT**

Byron Ashley (21), Charles Baker (39), Ed Brencic (12), Del McMinn (60, 63-65), Rich Ferber (54), Steve & Kit Furnell (62), William Kossnar for Keith Guenther (68), Dick Hammond (14), Richard & Lisa Hammond (35), Stefanie Hartnell (38), Janice Herrick (16/17), Robert & Rebecca Johnson (47), Pamela Leggett (9), Mike Lotka (57), John Lynch (53), Edith Mansfield (3), John McClelland (29-32), John Mihelich (1), Lou Ann Miller (51), Betty Ockershausen (56), David & Karleen Pauls (43), Rod Peppmuller (49), Tina Rose (52), Gary Thompson (46) and Billy Zimmerman (40)

INTRODUCTIONS

Board & Guests (40 lots represented and 30 owners present)

FINANCIAL REPORTS

Mr. Gory moved to approve the 2012 financials. Mr. Cramer seconded the motion and the motion carried unanimously.

CALL TO PUBLIC

Mr. Brencic asked if the homeowners have to be notified in writing about potential new Board members being placed on the ballot per the CC&R's. Mr. Churchill replied that anyone can put their name on a ballot without notice and that the meeting notice is not invalid. Mr. Brencic said it's too late to add a name to the ballot. Mr. Churchill said our CC&R's are very old (created in 1967) and don't comply with current statutes. *Mr. Brencic made a motion to delay the election until all homeowners have been notified.* It was noted that this is the reason we have write in's on the ballot. Ms. Wilson said she would hate to see the election efforts ditched, since this is the best turnout we've had in ten years. Lisa Hammond asked why the Board is being increased from five to seven. Mr. Cramer said we are authorized to go to seven, and not everyone can attend board meetings, so we can have better representation with seven, but we can also stay with five. Mr. Churchill said we need to have an annual meeting each year, and anyone can be voted to the Board of Directors at the annual meeting, or by absentee ballot. Proxy ballots are no longer legal per state statute, and there is no requirement that people have their names on the ballot, and notice must be at least ten days prior to the meeting. Mr.

Brencic said this isn't fair. Mr. Gory said that at former meetings people used to nominate people at the meeting. Mr. Brenic said he doesn't see any problem with this Board of five; they've done a good job. Mr. Churchill said being a Board member is a thankless job and there's no compensation for it; the meeting is intended to cause a vote for a new Board. Mr. Johnson stated that we haven't had a meeting in two years, and Mr. Churchill said Arizona law requires a yearly meeting.

Ms. Wilson moved to retain a five member Board of Directors. Mr. Brenic seconded the motion. Mr. Churchill said we can't do this because the Agenda says we will be electing a seven member Board today.

Ms. Furnell asked if we are supposed to have regularly scheduled monthly or quarterly meetings, and do they have to be posted and did we not have a meeting in 2012. Mr. Svider said we did not have a meeting last year because of the CC&R's rewriting process. Ms. Hartnell said there were financials that needed to be presented last year and that the best time to have a meeting is when things are going on. Mr. Svider said that two years ago there was the dog issue and he made a motion then that wasn't correct, and that holds true with this issue. Ms. Pauls asked Mr. Svider when he would have requested it. Mr. Mihelich said he has sent e-mails to Mr. Svider about keeping the Board at five members, and Mr. Svider said he went to Mr. Mihelich's house to discuss it with him. Mr. Svider said there is a misunderstanding between the two of them about the time frame.

Mr. Churchill said there is nothing to contemplate raising the Board to seven if it's currently at five, and Mr. Svider said the top five will be the true Board. Ms. Johnson asked if we aren't supposed to be notified about changes to the Board. It was noted that there hasn't been a newsletter in years. Mr. Cramer suggested that if Ms. Thomson has everyone's e-mail address, we can send notices and newsletters. A suggestion was made about the possibility of establishing term limits for Board members, and Mr. Churchill said there is no term limit unless you so specify one in your CC&R's, or in the By-laws. He also advised that to do that we would need another meeting and another notice, per new Arizona laws. Mr. Gory said HOA's have changed dramatically, and Boards now have increased liability--HOA's are a big deal now.

Mr. Cramer said he thought term limits would be fine with him, but they should exclude Ms. Thomson who does the books. He also thought it could be a problem trying to find five new people to step up to serve every couple of years, and Ms. Miller agreed. Mr. Gory said we would love more homeowner input.

Ms. Hartnell said we need commitment from the Board and more communication with the Board; that we have not been given the opportunity to attend even a quarterly meeting, or other opportunity to present our concerns, or have a newsletter.

Mr. Churchill said the laws have recently changed, and all meetings, even gatherings and work sessions for any purpose, need at least 48 hours' notice. He said he was hired by the Board very recently to get the Association up to speed and to comply with the laws. Everything needs to be an open book with all Association members. Mr. Brenic asked Mr. Churchill how much he is costing us, and Mr. Churchill said he charges \$250 per hour. There was a question about what day of the week or time of day meetings and informal gatherings are held, and Mr. Svider replied that they are normally held at about 5:30 p.m. at Mr. Gory's office, on a day convenient for the Board members. Ms. Rose asked if the Board could notify the homeowners of the next gathering. Ms. Wilson said the Board is guilty of not notifying the homeowners about the CC&R's work sessions. Ms. Rose asked if there is a website for these laws, and she was directed to the State of Arizona's website where all the statutes are available to the public.

MIKE LOTKA and CHUCK BAKER were nominated to the ballot as write in's.

A motion was made that Mr. Mihelich research and report to the Board about the possibility of turning over the Association's roads to La Paz County. Mr. Johnson seconded the motion and the motion carried unanimously.

Keys to the gate at the ramp are in the possession of Mr. Svider.

Secretarial duties were discussed, those of the official corporate Secretary and those of Ms. Thomson who in the future will be asked to only field e-mails on behalf of the Board, not be responsible for replying to them.

PROJECTS

Beach – Ms. Wilson presented a welding proposal for beach stairs. No action was taken. She also presented a bid from Mike's Contracting, Inc. to replace beach sand to a depth of 4" for \$1,600, or to completely remove all sand and replace it for \$1,950. Mr. Svider said we paid \$1,400 two years ago, and Ms. Hartnell asked if we should obtain other bids. It was decided to wait another year to replace the beach sand.

Cul-de-Sac Pooling – Mr. Baker said he will put in a dry sump, essentially a leach field, to alleviate drainage in the cul-de-sac. Mr. Mihelich said he would incorporate this matter into his road research with the County.

Dogs on the Beach – This matter will be voted on in the CC&R's, and it was noted that there is no rule prohibiting dogs on the beach at this time, but the County leash law applies. Mr. Churchill said the County rule about dogs is pretty weak; that the Association can make some reasonable rules, but it cannot establish any fines under the current CC&R's. Mr. Pauls asked who enforces such rules. Mr. Mihelich said he is getting good at ID'ing dog poop.

CC&R's - Mr. Mihelich said he spent a lot of time reading the new CC&R's draft and doesn't see any difference between this version and the old ones, and *Mr. Mihelich moved to forget the CC&R's project.* Mr. Gory, as an example of how old they are, said we need to remove the right of first refusal that's in the existing CC&R's. Mr. Mihelich replied that clauses in contracts that are illegal are invalidated in the severability clause. Mr. Churchill said that depends. As an example, the existing CC&R's contain a clause about a proxy ballot, which is now illegal, so we need to have an absentee ballot clause in lieu of a proxy. Also, a court of law can invalidate something based on case law and how enforceable something is. He said our CC&R's were acceptable in 1967, but they don't serve us today. Also, the better the CC&R's, the more valuable your property will be. They don't include management issues. Associations first look to the CC&R's, then to the Articles of Incorporation, then the By-laws, then the rules. Mr. Ferber asked if we could just do an amendment, and Mr. Churchill said that is what was drafted and that the draft Amendment was fashioned after Lake Moovalya Keys. Mr. Cramer said he spent a lot of time with Mr. Churchill getting the draft ready, and that time spent was what convinced him we need to address these many things, and how to handle them, since we are now living in a very litigious society. Under the current CC&R's the Association has little to defend and protect itself.

Mr. Mihelich expressed concern about the formation of a design review committee, and under the draft CC&R's his newly constructed barbeque would be illegal; he said this is not Orange County, and if someone wants to paint a house pink, so what. Mr. Cramer said we can either ignore this committee or have one that addresses certain issues, but we can only go one way or the other; we can go back and review some of the language. Mr. Gory said we need protection from liability, stating that Casas Del Rio has been involved in lawsuits, and they have lost them all due to bad CC&R's. Mr. Mihelich said he has a hard time with a design committee.

Mr. Churchill said that in his experience every single HOA says they don't want many changes to their CC&R's, and by the time he advises them of the reasons why they need to update them they say, 'why didn't we do this in the first place?' Also, he said it is easier to start with a fresh draft than to try to fix the old ones. He said these clauses in the draft CC&R's are there to protect you, and there have been a lot more problems since 1967. He said you can create your own rules, or wait for the lawyers to get you out of the messes later—the second alternative being more expensive.

Mr. Gory said he is personally concerned about liability if we don't get current, and he said he doesn't want to be on the Board if he's going to subject himself with unnecessary liability. Mr. Cramer said we can re-vamp the draft.

Ms. Hartnell referred to the language on page 30 of the draft about boats and vehicles not being able to park on any vacant lot, and this isn't fair; it should be okay if it is your lot. Mr. Cramer agreed and also said there are modifications that need to be discussed, such as stating 'unless approved by the lot owner' and that 'the boat or vehicle needs to be operable'. Mr. Churchill explained that the reason for putting that clause in was that a single residential lot shouldn't be used for 'storage'. Mr. Johnson said that operable or temporary storage of such items should be okay as long as it isn't broken or getting repairs done to it. Mr. Cramer said it is up to us to modify these clauses, and that they are there to try to negate potential problems, but they are not cast in stone.

Mr. Baker said he has been in Lake Moovalya Keys for 30 years, and the 1995 CC&R's took one and one-half years of work sessions and drafts to homeowners to get the 85% approval of all 255 lot owners--it's a long process of work sessions. And a lot of the work has already been done for us by using the Lake Moovalya Keys CC&R's. Right now Keys II has no structure, no regularly scheduled Board meetings, and we didn't have an annual meeting in 2012. He also said that there were only 15 members at the 2013 Lake Moovalya Keys annual meeting because things are running so smoothly. He advised not to be afraid of this draft CC&R's--that they're there to protect you. He suggested work sessions to move the project along, as well as better e-mail communication for members to voice their concerns in this process.

Ms. Pauls noted that on page 27 of the draft the word 'trailer' is vague, and she believes it should say 'travel trailer' or something to that effect.

Mr. Mihelich presented his marked up draft to the Board and suggested a work session be scheduled in two weeks to review all homeowner comments to the draft. Mr. Cramer said we need 75% homeowner approval, signed and notarized, of the final draft before they can be recorded with the County Recorder. Mr. Baker said each Board member of Lake Moovalya Keys was assigned to meet with a group of homeowners to work with them in the approval process of those CC&R's.

ELECTION OF BOARD OF DIRECTORS

With the consensus of members and the Board agreeing to maintain a five-member Board, Ms. Thomson read the ballot results in order of number of votes received, and the following five were elected to the new Board of Directors:

Stefanie Hartnell, Heather Wilson, John Mihelich & Robert Gory, and Mike Lotka. Mr. Ferber expressed his appreciation for the work of the outgoing Board members.

ADJOURNMENT

The meeting adjourned at 11:20 a.m.
Submitted by Recording Secretary, Sue Thomson