

MINUTES OF THE OAK CREEK HOA SPECIAL CALLED BOD MTG.

September 5, 2023

Location: Kolenovsky's house

Attendees: Bill Davis, Mitch Kolenovsky, Katy Anderson, Wendy Parker, Warren Nossaman

Call to Order: Bill Davis

The minutes of the last meeting, June 20, 2023, were approved by acclamation.

Bill Davis read the following opening statement declaring the purpose of this special called meeting of the Board of Directors:

"The purpose of this meeting is to allow each Board Member to express their opinions concerning the enforcement of the POA Covenants and the retention of Legal Counsel when disputes arise. Each member will be allowed uninterrupted time to express their opinions and then time will be given for other Board members to ask questions. It is noted that all of us are not only Board members, but friends and neighbors. I request that all address one another and the issues with integrity. Do not interrupt another Board members statement. Make notes and ask your questions at the appropriate time."

The discussion time began and when asked who would like to begin the discussion, no Board member volunteered. Bill Davis then said he would begin the discussion. He asked a question: "Are there any of us who believe that there is no longer a need for the POA to exist?" All agreed that they believed that the POA was important to the residents of Oak Creek and that it should continue. From that point on all board members participated freely in a discussion concerning the importance of, or lack thereof, strictly enforcing the covenants. There was discussion about how the covenants should be enforced, whether fines could and/or should be imposed when covenants were violated, the equitable enforcement of the covenants, and the role of the Architectural Control Committee in the enforcement of the covenants.

Three specific cases recently reviewed by the ACC were discussed. One was the Hamlett's fence and gate. The ACC had ruled that the fence and gates comply with the Covenants. It was finally agreed that the gate in question is not on the Hamlett's perimeter fence line and that the ACC's ruling was correct. There was also discussion on how to secure the ingress through the creek. It was finally agreed that there is no cost-effective way to do so without blocking the water flow of the creek.

The second ACC ruling that was discussed concerned a ruling that the gate installed by Kathy Law in her perimeter fence is not in compliance with the Covenants. Since Ms. Law has appealed the ACC ruling in her case to the Board of Directors, and has retained legal counsel, the Board did not take any action on her appeal. A date will be set to hear her appeal and a vote to uphold, overturn or modify the ACC's decision will take place at that time. The Board did however discuss the two articles of the Covenants that seem to bear on this case: Article VI-5 and Article IX-3. The discussion

by the Board centered around whether the Covenants in general, and these two specifically, should be enforced as written or interpretive latitude given when enforcement is called for. Consensus on this issue was not reached.

The third ACC ruling discussed had to do with a variance recently given to Al and Delores Duffey. The ruling involved granting a requested variance allowing them relief from complying with Article VIII-1. After much discussion on the enforcement of this Article, it was agreed that the Duffey's had followed the procedures outlined in the Covenants to request the variance and that the ACC had acted within the purview of their authority to grant the variance. Since there was no appeal in this case, the Board of Directors has no standing to revoke nor modify the ACC's ruling.

There was discussion about the Board assessing fines for violations of the Covenants. Mitch said he had done some research on this matter and that State Statutes governing POA's say that a schedule of fines adopted by the Board must be in place before fines may be assessed. It was agreed that the Board needs to take this matter into consideration, but that this meeting was not the time to do so. The matter of fines will be discussed at a later date.

The discussion moved to the upcoming appeal hearing on Kathy Law's case. Since she has retained legal counsel to represent her in this hearing, it was suggested that the POA request our retained legal counsel, or counsel recommended by him, to also be present to represent us. Some were not in favor of this and said they did not want to spend any money for this purpose. Others said that no one wants to spend money on attorneys but that they felt like we were being forced to do so. They countered that entering a hearing that could ultimately evolve into a lawsuit against the POA without legal counsel present would not be in the best interest of our membership. It was pointed out that we already have a retainer fee with our attorney, and we have a contingency fund in addition to our annual budget to draw from if necessary. In the end Bill Davis called for a vote and asked "Who is in favor of having an attorney present at the hearing? If so, please raise your hand." All members of the Board voted in favor of having an attorney present at the hearing.

The Board asked Mitch Kolenovsky to contact our attorneys to request their presence, or their recommendation of an attorney to stand in their stead, at the hearing. It was agreed that the week of September 18 or 25, in the evening after 6:00 p.m., would be best.

Wendy Parker informed the Board that she would be recusing herself from the Kathy Law appeal due to a conflict of interest. She also informed the Board that she plans to resign from her position on the Board sometime prior to the Annual Meeting for personal reasons. The Board expressed its sadness in losing her, but its understanding and support in her decision. No action will be taken by the Board until formal notification of her resignation is received.

Bill Davis reminded everyone that the next scheduled Board meeting will be held on Tuesday October 17 at 6:00 p.m., at his house. The main purpose of the meeting will be to finalize a budget proposal 2024, to discuss possibly presenting an increase in annual

dues to the membership and presenting a special assessment to the membership at the annual meeting.

Bill Davis reminded everyone that the Annual Meeting of the POA is scheduled for Thursday October 26, 2023, at 6:00 p.m. Currently the meeting is scheduled to be held at First United Bank 200 N. Austin St., but the location is subject to change.

There being no other business, Warren Nossaman made a motion to dismiss which was seconded by Wendy Parker and the motion passed.

Bill Davis dismissed the meeting.

Mitch Kolenovsky

Secretary