

**LAKE MOOVALYA KEYS
Board of Directors
Annual Meeting**

**La Paz County Board of Supervisors Meeting Room
Parker, AZ**

**APRIL 23, 2011
9:30 A.M.**

CALL TO ORDER

President Jack Sweeney called the annual meeting of the Lake Moovalya Keys Board of Directors to order at 9:30 a.m.

PRESENT

President: Jack Sweeney, Vice-President: Chuck Baker Secretary/Treasurer: Laura Lancaster. Board Members: William (Squeak) Kossnar, Chris Chambers, Blane Coon, Joe Price, Gary Svider, Christie May, Ryan Shubin and Rob Troxler.

OTHERS PRESENT

John Churchill, Legal Counsel; Sue Thomson, Business Manager; Cheryl Shockley, General Manager and Recording Secretary.

PROPERTY OWNERS PRESENT

The sign-in sheet of those present at the Annual Meeting is on file with the Association. The number of owners present at the meeting was 42 .The number of members who voted either by regular ballot or absentee ballot was 124. (89 Absentee Ballots and 39 submitted).

INTRODUCTIONS

The Board members, legal counsel, Business Manager and General Manager introduced themselves to the membership. The owners and meeting guests introduced themselves.

FINANCIAL REPORTS

A motion was made by Mr. Baker to approve the 2010 Financial Reports. The motion was seconded by Joe Price. Discussion: Ken Ferguson Lot 172 said that he thought there was a mistake on the 2010-2011 Income and Expense report. He stated that the figure for the budgeted 2011 legal fees was missing and in its place the transfer fee figure. He said it looks like the budget amounts for transfer fees and trash need to be moved down one column and insert the figure budgeted for 2011.

Jack Sweeney stated that the Ms. Thomson would amend the income and expense of the 2011 budget for its lack of legal fees on the proper line. Any other questions? All in favor?

Group: Aye. Opposed: None. *The motion carried unanimously.*

DISCUSSION OF BALLOT PROPOSITIONS

Homeowner Lauri Burke of Lot 122 commented on the anonymous email that went out. She stated that the email compared Moovalya Keys to Miraleste Shores and that was an unfair comparison. She said the emailed made the statement about Miraleste having a 28-foot height requirement but Ms. Burke pointed out the Miraleste has 50-foot wide streets and much larger lots. She said they have not only 20-foot front setbacks; they have 20-foot wider front setbacks. Miraleste Shores also has required landscaping. Ms. Burke stated that if these things were to be incorporated into Moovalya Keys CC&Rs, we would have no room for our housing at all. She said that the height issue is something that is going to be needed in the future. But she thinks that it is something that needs to be thought out much more clearly and not thrown at the board, at the last minute, to be put on the ballot for a vote. Ms. Burke also commented that setbacks, lot coverage and parking need to be considered before raising the height limit.

Jack Sweeney thanked Ms. Burke for her comments on the height issue and asked if anyone else had something they wanted to talk about on the proposals that are on the ballot?

Chuck Baker stated that he has been appraising property in La Paz County, Mohave County and Yuma County since 1974, and he felt pretty qualified to talk about values. He stated that whoever wrote the height issue e-mail professes to know about values. He said he did not know if everybody saw this e-mail. But it says, "At one time, the Keys were the most desirable real estate on the Parker Strip. Despite this, our desirability has decreased in recent years, as other developments have allowed property owners to build large homes." Mr. Baker said he did not think that statement was correct because he looked over all the sales on the Parker Strip for the last two years. He stated the sales were from \$350,000 to \$1.2 million and there were 42 sales, 23 of those sales were in the Keys, which is a little over 50 percent. Mr. Baker said he thought that the Keys were still quite a desirable place to live. He said that values in all areas have gone way down. The typical average value, in the Keys, has gone down about 30-35 percent. There are some areas that are more and some that are less. The rest of the county on the Parker Strip is anywhere from 50-60 percent, so we're doing something right. The Keys is a very desirable place and our values have not gone down as much compared to other areas around the Parker Strip.

Jack Sweeney thanked the homeowners for their discussion in this matter and asked if there were any more comments on the proposals.

Homeowner Lauri Burke of Lot 122 asked if the owner of property where the boat rental business was operating out of was in attendance. She stated as far as she knew, there has been no contact made by the property owner to the Board to support Mr. Ferber's use, no phone call, no e-mail, no letter writing of any kind to support Mr. Ferber. She asked why this was. Ms. Burke stated that she didn't know if it was a liability issue or any other kind of issue but if the property owner is not willing to support Mr. Ferber's use, she doesn't see why the homeowners should be willing to support it.

Rich Ferber stated that the people that own the lot that he leases, said they were going to come to the meeting and, at the last minute, they changed their mind. He also stated that no communication has been initiated by the board. Mr. Ferber said his attitude was always that this whole thing was something that the property owners shouldn't be bothered by. He also said that this matter was initiated from somebody on the board who thinks that he shouldn't be there renting boats.

A homeowner asked why the Association was actually trying to kick Mr. Ferber out.

Mr. Sweeney responded that the Board was not trying to kick out Mr. Ferber; the proposal is to let him stay. Mr. Sweeney said a yes vote on the proposal was to let Mr. Ferber stay and run his boat rental business with the conditions stated on the "Conditional Use Permit" that was agreed upon by Mr. Ferber and the Board. He stated the permit if passed would help alleviate any kind of problems within the Keys.

Mr. Churchill stated that the CC&Rs, as drafted, prohibits C2 uses. He said that a number of lots many, years ago, were designated C2 by the county. Over the course of years, many of those uses have changed. Back when the CC&Rs were modified and adopted, there was considerable amount of agonizing over terms of these uses. And the members, at that time, which was 1995, adopted CC&Rs which restrict those lots to C1 uses, regardless of how the county characterizes them. Mr. Churchill stated that the association has the power to adopt more strict requirements than the county has. Frequently, homeowner associations have much stricter requirements than the counties do and this is one of those cases. And what happened is, apparently, the board did not step in and stop Mr. Ferber from doing his business, initially, because they were not aware that what his use was not a C1 use, when in fact, it was a C2 use and when that was brought to the board's attention. Mr. Churchill said that he was asked by the Board to investigate what could be done in this situation and what the Association could do is we have the power with regard to commercial lots to grant concessions. He said there was much discussion about what to do, and the Board agreed to let the members approve to authorize a deviation from the CC&Rs, in other words, a very limited C2 use with numerous conditions on that use. Mr.

Churchill said the conditions were set out, he believes, in the proposed permit. It would permit Mr. Ferber to use that lot for limited purposes that is not, technically, a C1 use. Mr. Churchill said that this permit happened because of boating and boating is what everybody does in the Keys. So it didn't look like a nonconforming use. It's not like it's a used car lot or a gas station or something that would obviously not be contemplated as a C1 use. So the board agreed to submit this proposal to the members to permit Mr. Ferber, with the conditions, to continue to use the lot for that limited C2 use, and that's what was put before the members. But the members have to approve it. The board can't do it on its own.

Mr. Sweeney said the Mr. Ferber had come to several meetings and asked that certain things be considered for his use of the property and was actively participating in the process for some time and that's where the Board came up with the provisions of the permit and the limitation on the use was with Mr. Ferber's participation.

Mr. Ferguson's stated his first concern is that he did not don't understand how a tenant (renter) could come to the board and ask for significant changes to the way a lot's being used. He stated his second concern was the use and part of it has to do with past experience with the parasail boat in the canals and Mr. Ferber's expressions to his wife, when she asked him to slow down, he got verbally abusive to her and made rude gestures to her as he was going by their house. Mr. Ferguson said Mr. Ferber is out there, obviously, going much faster than he supposed to go down the canal and he knows that Mr. Ferber's boat doesn't throw a big wake, but he goes in there much faster than you would expect anybody else to go.

Mr. Sweeney stated that he never had an issue with him going by his house and that he seems to be going the normal speed, when he goes by. Mr. Sweeney said that Mr. Ferber seems to navigate the waters completely and totally safe. And when there are boats coming in and out of the grid, he's the one that backs up and waits.

Mr. Ferber said he was sorry if he ever offended Mr. Ferguson and Mrs. Ferguson, but it did not behoove him to gesture to anybody in any way whatsoever. He denied deny that happened. I'm a parasail guy here and I get people out of the Keys every day on my boat who wants to parasail, it just doesn't make sense for me to speed through the Keys, and upset homeowners. He said he is literally, a tenant and a guest, and he doesn't feel he has any right to go faster than anybody else, in fact, he tries to go slower.

Mr. Habermann Lot 229 stated that Rich drives past his house every weekend, when he's here and he can stop his boat on a dime. He's not making wakes. And, in reality, he drives a boat for a living, he's probably better at driving his boat than anybody else that is here driving theirs, because he's doing it for hours and hours and hours and hours every single day.

Homeowner Chris Chambers commented on the height increase proposal. He said that the last time the issue was voted on was five years ago and at that time he was not able to attend the annual meeting. He said that at that meeting homeowners requested that a committee be formed to look into increasing the height. Mr. Chambers stated that all the Board did was send out a letter asking for a yes or no vote, so the committee was never formed.

Mr. Sweeney stated that when the last poling was done on the height increase, the polling came back 60 percent of the people voted on the polling voted not to form a committee and not to raise the height, and that was why the committee was never formed. He said it was because the majority of the people in here did not want the height raised, okay.

Mr. Chambers said that if the height increase passes a committee will need to be formed to come up with the rules and restrictions, he said that in the Association's CC&R's there are provisions for such a committee. He said it was Section 11 of the CC&R's "Architectural and Landscape Control". Mr. Chambers stated that such a committee would review plans submitted and that section 11.2.4 provides the committee and the board limitations and restrictions concerning the construction, reconstruction, exterior additions, change or alterations to buildings, structures, walls and fences. He said this review committee if formed per the CC&R's could ok, shapes, heights, exterior colors, landscaping and so on.

Mr. Chambers said by forming such a committee the Board would have total control over what type of house someone was trying to build and the committee could take in all factors such as the height before approving any plans.

Discussion between homeowners on the pro and cons of increasing the height to 25 feet and the formation of a design review committee.

Mr. Churchill commented on the CC&R's and the design review committee. He stated that the board has never selected a group of unfortunate souls to be on a design review committee, and as you probably know, the board is not compensated for the work that they do and the time that they devote every month to these projects and issues. They're paid nothing for an immense amount of aggravation, typically, as are most boards in these situations. The CC&Rs do require the board to evaluate every proposed construction. And, in fact, the CC&Rs require the board to consider, among other things, the harmony of external design and location in relation to surrounding structures and location. Mr. Churchill said he was confident that that portion of the CC&Rs is not going to be amended. So even if the height increase is passed, and it was okay to do a 25-foot house, the board would be on the horns of a dilemma if it's next to a 15-foot house, which most of the houses in the Keys are, because they were built pursuant to the old CC&Rs, which were 15 feet. So how can the board okay a 25-foot house next to a 15-foot house? It's obviously not harmonious with the house next to it or possibly other houses next to it. Mr. Churchill said quite frankly, he thinks the board would have problems, even if through some miracle, this thing was passed, especially if it was just passed willy-nilly with no restrictions. Mr. Churchill said that when the original CC&Rs were drafted for houses of that height, and it would appear the CC&Rs were quite restrictive regarding height with low houses required because of the nature of the subdivision and the way the lots were laid out in the first place.

Mr. Ferguson also mentioned that a two-story house burns a lot bigger and more, when it catches fire, so that's got to be contemplated. Do we have to require sprinklers? He said there are a lot of things that are going to have to go into this, if it's even going to be contemplated.

NOMINATIONS FOR BOARD OF DIRECTORS

Mr. Sweeney asked if there was anyone beside Kit Furnell that would like to be nominated for the Board. He stated that Kit Furnell was a write in candidate and he thought she would be a good addition to the Board.

Ms. Furnell of Lot 16 stated that she has been a permanent resident of the Keys for almost 30 years, and that she cares about the Keys. She says she lives here all the time and this is our home and she would like to see it stay the wonderful community that it is. Mr. Sweeney closed the nominations.

PAST PROJECTS

Mr. Sweeney said that the trash enclosure block columns were enclosed with steel and the doors remounted for better access. Then the doors and columns were painted along with the front gate and supply shed.

PROPOSED PROJECTS

Mr. Sweeney stated that the streets were due for a sealcoat and crack fill in the year 2012.

Mr. Sweeney asked if there were any more questions on the ballot proposals, and asked everyone to turn in their ballots if they had not done so.

OPEN COMMENTS

Mr. Russ Derby of Lot 85 expressed his concerns with the added costs and having La Paz County Sheriff's Deputies posted on his street New Year's weekend. He asked why as a board, would they spend \$4,000.00 for a three-day weekend. He said that is was an unnecessary cost and that he had spoken to other homeowners on Apache and they did not want the cops sitting on their street.

A homeowner asked about getting more "No Wake" signs in the canals. He was informed that the matter had been brought up in a previous meeting but the Board felt that the signs that were at both entrances were adequate.

ELECTION RESULTS

Mr. Sweeney stated that the height increase proposal and the "Conditional Use Permit" for lot 220 were not passed by the Association members.

Height increase vote: YES 41; NO 78

Conditional use permit/Lot 220 vote: YES 54; NO 68

Mr. Sweeney announced the election of Board of Directors results with the following persons being elected to the Board [with the number of votes each received]:

JACK SWEENEY [84], CHRIS CHAMBERS [72], CHUCK BAKER [90], WILLIAM "SQUEAK" KOSSNAR [75], GARY SVIDER [54], LAURA LANCASTER [76], BLANE COON [68], JOE PRICE [79], RYAN SHUBIN [69], ROB TROXLER [56] and CHRISTIE MAY WARD [67].

Other votes included write-in's Kit Furnell [35], Ken Ferguson [6] and Carl Bozeman [2].

ADJOURNMENT

The meeting adjourned at 10:30 a.m.

Submitted by Cheryl Shockley, Recording Secretary

APPROVED BY BOARD OF DIRECTORS 9/12/11