



Community Newsletter

The Voice of Condominium, Civic, & Homeowner Associations of Pasco County

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Council of Neighborhood Associations, Inc. since 1985

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CONA

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Are You Covered?

Wednesday, February 16, our
CONA Meeting will feature:

*Bill Stitt, Community
Insurance & Risk Management
Specialist for Bouchard Insurance*

HE WILL CONCENTRATE ON
DIRECTORS & OFFICERS
LIABILITY INSURANCE.

The meeting will be at the
New Port Richey City Hall in
chambers at 5919 Main Street
New Port Richey
at 9:30 a.m.

*CONA member meetings are open
to all who wish to attend. Bring a
friend. We really need your support.*

President's Message

"REFLECTIONS" „BEFLECTIONZ„

Every time I write one of these messages, I find myself starting with a common theme. From the moment that we were able to put together the pieces of a deal that permits us to further our existence in Pasco County, for the benefit of our members, it has been and continues to be comprehensive.

We have examined every aspect of our operation, our objectives, and ourselves. We set the goal of a dynamic, growing and progressive entity that will enter 2005 a respected and challenging group armed with a great board of directors and our largest

supporting membership of homeowner associations, condos, mobile homes, and individual members.

We should all be very proud of the amazing challenges we have undertaken, and accomplished. I started to review them in my mind and was awed by how much we have taken on and projects completed.

I thought it would be enlightening to summarize them here so we can really grasp how much we have accomplished with the help of our members and the hard work of our Board of Directors of CONA and our East CONA Chapter. Our success depends on each CONA member and their contributing support. *Thanks everyone. Without you we couldn't exist.*

Current Projects:

- School Impact Fees
- Commercial Development, Big Box stores, and Public Safety Impact Fees.
- On-going attention to code enforcement statutes.
- Mediation/Arbitration

Past Accomplishments:

- Mowing Ordinance
- Unlicensed Cars and Trucks
- Short-term Rental Policy
- Bench Ordinance
- Uniforms/Badges for Code Enforcement officers
- Change starting time of code enforcement officers
- Change of PID numbers issued on original complaint
- Change to State Law 689.26 (Real Estate)
- Billboard Ordinance
- Sign Ordinance (Snipe signs)
- Landscape Ordinance
- Tree Ordinance ♥

P From the
Office of
Pasco County Sheriff

Bob White

I am excited to announce the start of our latest volunteer unit here in Pasco. The mission of the Citizen Service Unit (CSU) will continue my commitment to provide cost-effective law enforcement services to county residents.

CSU members are volunteers that are trained by the Pasco Sheriff's Office to augment the patrol function of our law enforcement deputies by responding to many non-emergency and routine calls for service. CSU volunteers also perform proactive "neighborhood watch" patrols in their local communities. The support these volunteers provide will free up deputies to respond to more serious calls from citizens. The volunteers of the CSU will provide an increased public presence, which can help to deter crime and enhance the quality of life in our communities.

Volunteers free up deputies to respond to more serious calls from citizens.

The inaugural class of 25 CSU volunteers recently completed 55 hours of classroom instruction, and 40 hours of field training with law enforcement deputies. I am impressed by the number of motivated citizens who have volunteered. They include former military members, law enforcement officers, and teachers.

The Pasco Sheriff's Office CSU members can be dispatched to call for service including minor traffic crashes, vandalism, petty theft/retail theft, lost & found property, parking violations, citizen assists and welfare checks, illegal watering complaints, assistance on searches for missing persons, and vacation house checks.

CSU members will NOT have arrest powers, carry weapons, use physical force in the performance of their duties or operate a Sheriff's office vehicle in an emergency mode.

Anyone who may be interested in becoming a volunteer to serve in the CSU is urged to contact the Sheriff's Office Human Resources Unit at 1-800-854-2862, ext. 7791 □

Editors Note: Our own, President Mel Phillips, is a graduate of this first class.



IN PROGRESS

Senator Mike Fasano's Legislative Issues

WORK

State Senator Mike Fasano will be championing issues of great importance to Pasco County's residents. Consumer protection, public safety and mobile home issues will be headlining his legislative agenda.

At the top of the list of bills he has filed is Senate Bill 602 which will repeal the statutes created in 2003 allowing for the huge phone rate increases previously authorized by the Florida Legislature.

"I filed this legislation to right the wrongs done to Florida's consumers," Senator Fasano states. One of the few vocal opponents of the phone hike bill, Senator Fasano will work hard to convince his colleagues to reverse what the previous legislature put into place. "Floridians, especially those on fixed incomes, should not have to pay huge increases for a need as basic as telephone service."

Senator Fasano has once again filed the Senior Safety Act, which this session has been numbered SB 314. This legislation will increase the severity of penalties for those convicted of certain crimes against the elderly and disabled. Such crimes as

exploitation, battery and assault will result in increased prison time for those convicted.

"Those who prey upon some of society's most vulnerable citizens deserve to pay a higher penalty," Senator Fasano states. "Passage of this bill will insure that those who harm or take advantage of the elderly or disabled will spend more years behind bars."

A third issue that Senator Fasano will be devoting his time to in the coming months will be to assist residents of mobile home parks. In response to concerns brought to him by residents of Hacienda Mobile Home Park and Harborview Mobile Park, Senator Fasano plans to look into providing some legislative relief to residents who are unfairly burdened with huge rental increases.

"Park owners should not be allowed to impose enormous rent increases on residents," Senator Fasano states. "I will be working to put a moratorium on rent increases for six months once arbitration in those cases has commenced."

For more information on these and other pieces of legislation Senator Mike Fasano is currently working on please contact his office at (727) 848-5885.

This article was submitted by Greg Giordano, Senator Mike Fasano's legislative assistant.

ARE YOU COVERED???

The purchase of commercial insurance is one of the most important components of a community association's risk management program.

When confronted with decisions concerning their commercial insurance program, association boards of directors often take the easy route and simply repurchase the old program. Knowledge is necessary to fulfill their legal requirements and fiduciary obligations.

Condominiums, cooperatives, and planned communities each function as a business, government, and community. Each function can lead to property, liability, net income, and personnel exposures to loss.

Risk management is the process of making and carrying out decisions that minimize the adverse effects of accidental losses upon the community association. An exposure to loss is the possibility of financial loss because of the occurrence of some event, activity, or peril.

Risk management is a five-step decision-making process that:

- Identifies exposures to loss
- Examines treatment techniques (control and financing)
- Selects the best techniques
- Implements the techniques
- Monitors the techniques

Since September nth, risk management has taken on new meaning for community associations.

The purchase of commercial

insurance transfers some of the risk of loss to another party--the insurer. Insurance helps offset property, liability, net income, and personnel exposures to loss that all community associations face.

Unfortunately, while the insurance industry has changed, state enabling statutes and many association governing documents contain old terminology.

Insurance policies are special contracts between the insurer and the insured. Contracts are legally enforceable promises. Every contract must have certain features to be valid and enforceable, including: an agreement, competent parties, consideration, form required by law, legal purpose, and no defense to formation or enforcement. If an element is missing, the contract may be voidable.

Copied, in part, from GAP#4 - Community Association Insurance & GAP#25, Community Association Risk Management, of Community Associations Institute publications.

For full text, refer to the booklet that you received at a previous meeting, to order your copies.

Your association is run by its Board of Directors. Under Florida Corporate Law, the Florida Case Law, and the community association governing documents, **it is the Directors who make decisions** and handle the operations of your community association. *If the majority of the Board is not willing to make a motion and vote for the removal of an officer who has gone astray, then there is potential for the*

entire Board to have liability if the association incurs financial or other damage because of that officer's actions.

If an officer takes action without Board approval, and there are financial damages to the association, it is possible to bring a suit against the officer individually and personally.

Copied, in part, with permission from CAI Suncoast Chapter, July Newsletter, ♥

ACCEPTING LIABILITY IS PART OF HOSTING A HOLIDAY

PARTY (IN PART) BY Benny L. Kass
Used with permission from Regenes.net

Each state has different laws and interpretations -- as to the potential liability of a community association which serves liquor at a party.

If you serve alcohol at your party, what steps should you take to protect yourself -- and the other owners in your association?

You should have an outside bartender, who is an independent contractor and not an employee of the association. It is recommended that the Board should hire a bartender who will sign a contract, which provides among other things, that the bartender will be liable for his/her negligence and has his/her own insurance.

You should talk with your association attorney and your insurance agent to make sure that your association has adequate protection should the inevitable occur.

Keep in mind that most general liability insurance policies usually exclude liquor liability; this means that there will be no coverage should someone get injured or killed as a direct result of the liquor which was served at your party.

If there is no coverage -- or inadequate coverage -- the owners will have to ante up the money. Additionally, there may be liability on the part of each Board member.

Abstinence is the best policy!! ♥

ARE YOU COVERED???

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Never Mind the "Hanging Chads" *Count the Ballots !!!*

PREPARE TO PREPARE

As with any project, it's important that you have enough planning time. Most elections take place during an association's annual meeting, so you do have an endpoint to shoot for.

Review. Advance preparation gives your board and manager time to evaluate your last election. During your review, you can identify both problems and successes and revise your procedures accordingly. This is also a good time to review the electoral process in relation to your association's governing documents and see if set procedures were followed.

Timeline. Establish a timeline for the election. Write down every task that goes into planning and implementing the election, and designate someone to complete each assignment—and the date by which it should be completed. This prevents items from being overlooked (or sneaking up on you) and adds a sense of accountability in the process.

Wanted: Candidates

After you've set a schedule and assigned tasks, it's time to take the first step in the actual process, finding candidates. There are three ways to solicit candidates for board positions—a nominating committee, nominations from the floor, and write-ins on absentee ballots or directed proxies.

Nominations from the floor. This may seem like the most efficient way to identify candidates, because it requires no preplanning. Nominations are simply called out at the meeting at which the election will be held. However, this may preclude some residents from becoming candidates simply because they weren't

able to attend. Additionally, some nominations may be impulsive, made by people who are unaware of the responsibilities or time constraints of being a board member.

Write-in candidates. Although this method allows owners who aren't present to vote for the candidates of their choice—whether they're on the ballot or not—it brings up many questions, is a second necessary?

Whether you're coordinating your first election or just brushing up on your procedures, you shouldn't have any problems — as long as you have a game plan.

Does (and how does) the write-in candidate agree to serve? To ensure a fair process, write-in votes should be allowed unless provisions in the governing documents say otherwise.

Proxies: A proxy is a document that

allows someone else to vote on your behalf. Determine whether your governing documents call for the use of directed or general proxies, then establish how residents can hand in their proxies and by what means and standards.

Neutrality. Appoint neutral volunteers to oversee ballot counting.

Ballots. Create official absentee and standard ballots, making them easy to read and understand. See if your documents call for a candidate to obtain either a majority or a plurality of votes, and whether they permit cumulative voting. Your association should always *conduct elections by the book*. It will avoid controversy and free your newly elected board members from even the appearance of taint. Before you begin your next election process, grab your bylaws, take some notes, and make sure that everything will run efficiently and effectively.

Printed (in part) from Common Ground, a CAI magazine - May/June 2001. ♥

FYI

Q. At one of our meetings, a member asked...**"Can anyone run for the board...nonmember...nonresident...non-homeowner...or can an out of state person run for the board?"** Answer(in part) from CAI's Common Ground magazine, December 1995

A. Some documents permit non-homeowners to be elected as directors. These provisions are typically included to allow developer employees to sit on the board. However, unless amended, these clauses would not limit directors to developer employees—other non-homeowners could serve as well. The principal advantage is that the association could attract outside experts such as attorneys and accountants to serve on the board.. (This "advantage" is somewhat illusory—most association bylaws prohibit compensation to officers and directors, as do some state statutes. Another advantage is that tenants could serve on the board.

There are disadvantages, however. For example, you may seat a board member who does not share the concerns of the community. The primary disadvantage is the potential loss of that director's statutory immunity (in California, see Civil Code section S365.7). The purpose of statutory immunity provisions are to protect homeowners and to encourage them to serve. That protection would not extend to nonowners. It would also interfere with the homeowners' ability to hold a developer liable for possible negligence. Directors and officers liability insurance policies typically do not cover non-homeowner directors.

Cumulative voting. Many states require developers of common-interest communities to include provisions for cumulative voting in the governing documents (typically the bylaws). Cumulative voting is included in the documents to protect nondeveloper homeowners. It allows them to elect a representative to the board when the developer still controls most of the votes. Although the cumulative voting provision benefits owners initially, over time it may become an obstacle to efficient governance. Many statutes require a large number of votes to remove directors elected by cumulative voting. In some states, associations cannot elect members by mail-in ballot when cumulative voting is used. When cumulative voting is required, the voting must occur at a meeting where minority homeowners have the right to nominate and vote for the candidate of their choice. After the developer has sold its homes, the owners may wish to delete cumulative voting provision, particularly if a mail-in ballot is more convenient. Seek legal counsel to amend the documents ♥