



# Community Newsletter

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

Volume 5 - Issue 1

Council of Neighborhood Associations, Inc. since 1985 - Incorporated 1987

January 2007



## Board of Directors

### Officers

#### President

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#### Vice-President

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#### Membership Chairman

#### Secretary

Florence Weber 376-2001  
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#### Treasurer

Sally Schlender 862-0772  
sallyslend@netzero.net

### Directors

Pat Gorecki 846-0143  
Program Chairman

Vacancy - Director

Ernie Reed 869-8991  
ereed9@tampabay.rr.com  
Government Committee

Reynolds Smith Sr. 863-0734  
ReynoldsSmithSr@msn.com

Jim Turtle 938-3878  
Government Committee

## What does your Board of Directors Do?

Find out on  
Wednesday  
January 17, 2007  
9:30 a.m.

at  
New Port Richey City Hall  
in chambers at 5919 Main Street

### "Who should come?"

Every member, and any friends who don't belong to C.O.N.A., who live in a development that has a Homeowner, Civic, and Condominium Association should attend.

Many of you have people in your church, golf league, country-western dance club, and your bingo buddies, etc. that are unhappy with their organization or have questions about laws, county ordinances, or organization operational procedures can benefit from this meeting. Bring them all to this meeting.

Your C.O.N.A. Board of Directors is going to give you a little history, the purpose of C.O.N.A., summaries of our successes, projects we're working on now and anticipated 2007 action.

There will be plenty of time for questions and suggestions. Do you have a problem you would like C.O.N.A.'s board to address?

"MAKE EVERY CAR A CARLOAD"

by Director, Pat Gorecki

## C.O.N.A.'s Business



Report  
2006



Jan. 2006 begin. bal. \$1,223.16

### Income:

Miscellaneous Income	* \$6.02
Breakfast Income	1,485.00
Dues Income	2,585.00
<b>Total Income</b>	<b>\$4,076.02</b>

### Expenses:

P.O. Box	40.00
Bank checks	3.75
Refund/overpay of dues	* 5.00
D&O Insurance	1,020.00
New Cona Brochure	226.87
Fla. Corporation Fee	61.25
Postage	428.75
Newsletter Printing	693.73
Breakfast Expense	1,636.77
<b>Total Expenses</b>	<b>\$4,116.06</b>

## Recap of 2006 Activities

In January 06, Magnolia Valley asked Cona Board of Directors if they could get the county to pass an ordinance saying that residents who want to put up a fence need a permit from the county as well as the association.

So far, we haven't been able to get the county to do this. Directors' Reed and Turtle have not given up on this request.

See Recap p. 2

**Recap-** from page 1

**January 2006** the board members talked about putting the Newsletter on the Web, in color. It would have saved us money for printing and stamps. Unfortunately, it didn't work out. People just want the Newsletter mailed to them.

Also in January, the "sinkhole" fraud was brought to the attention of our members.

In **February** Secretary Weber presented a draft of a new set of bylaws to the board. Note: we are still working on them and we are making progress. Remember folks, we are volunteers. Our next meeting to peruse the bylaws is January 23rd. The subject of putting ads in our Newsletter was brought up to cut the cost of the Newsletters. The board members decided not to do that.

Directors' Reed and Turtle, in their quest to get the county to do something about fence permits, met with John Gallagher...the action? - no action by the county.

The **March** meeting notes indicated that the price of the 2006 "Breakfast party" charged by the country club was more than we charged for the tickets. It was decided to raise the ticket price for the 2006 breakfast.

In **April** Director Turtle went to a meeting in Tallahassee on the Citizens Insurance Co. problem. He spoke to the Legislature, Press Corps, and Governor Jeb Bush on the problems with the high cost of insurance. It was decided at the April meeting to get D&O (directors & officers) Insurance for board members.

In **May** our meeting place was changed and is now held at the Gulf Harbors Civic Association Clubhouse. Also, at the May meeting, we had nine school board candidates introduce themselves as they answered questions presented by the audience in regard to their bid for school board superintendent. Director Reed, a member on the DRC board, reported on the amendment to the "dock ordinance."

At the **September** meeting Director Reed announced that the "dock ordinance" would now enforce the DRC committees' recommendation that residents of Pasco County must request a permit to build a dock.

Note: How does that differ from a fence?

Vice-President Hubbs reported that the new brochures were printed and ready for distribution.

**October** - Oh yes, October... The New Port Richey manager informed President Scannavino that we could not have the date of the 18th for our member meeting. We were given a choice of the 16th or the 19th. We chose the 19th. Just after the emergency flyer was mailed, we were informed that the 19th was not available. PANIC TIME! Some of the board members did a lot of telephoning trying to find a place to have our meeting. No luck. So we settled on Monday, October 23, at the New Port Richey City Hall. Another notice had to be sent, but all worked out and we had a nice turnout. We thank everyone who stuck with us on this.

At this meeting, Mel Phillips pleaded with members to call him if they knew of any past or new sinkhole reports in their area. This information was needed for the Pasco County Survey on the insurance crisis. Not many members responded, unfortunately.

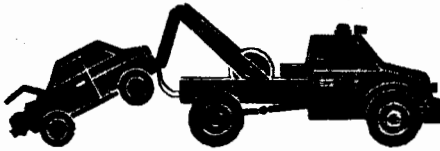
At the **November** board meeting, Secretary Weber suggested that we have door prizes at the 2006 Holiday Breakfast. If you didn't attend this party, you missed out on some great prizes. Thanks to the board members, we received a great response from local businesses. Kudos to board members for their begging tenacity. A big thank you to our Treasurer, Sally Schlender and her husband Herbert, for their personal contributions afforded our attendees and dignitaries. Kudos to Director Smith for making and sending the invitations this year (and every year) for the Holiday Appreciation Breakfast. He always does a great job.

President Scannavino suggested putting an advertisement in the Suncoast News to let people know about CONA. Instead of an ad, Director Gorecki volunteered to talk to Carl Orth of the Suncoast News about writing an article on CONA. The Suncoast News has more local news than any of the other papers. Check it out!

**In the works:** Director Turtle met with Pasco County Commissioners, Ann Hildebrand and Pat Mulieri, about raising the fine amount for cars parked on Pasco County streets. Suncoast News covered this in their Wednesday, Jan. 10th edition. It looks like it may go through. Stay tuned. ■

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# KNOW THE LAWS ON TOWING !!

## 715.07 - Florida Statutes - Vehicles or vessels parked on private property

(1) As used in this sections, the term: (a) "Vehicle" means any mobile item which normally uses wheels, whether motorized or not. (b) "Vessel" means every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02(9).

(2) The owner or lessee of real property, or any person authorized by the owner or lessee, which person may be the designated representative of the condominium association if the real property is a condominium, may cause any vehicle or vessel parked on such property without her or his permission to be removed by a person regularly engaged in the business of towing vehicles or vessels, without liability, the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage, under any of the following circumstances:

(a) The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or other legally authorized person in control of that vehicle or vessel is subject to strict compliance with the following conditions and restrictions:  
1.a. Any towed or removed vehicle or vessel must be stored at a site within a 10-mile radius of the point of removal in any county of 500,000 population or more, and within a 15-mile radius of the point of removal in any county of less than 500,000 population. That site must be open for the purpose of redemption vehicles on any day that the person or firm towing such vehicle or vessel is operated for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle or vessel, the operator shall return to the site within the hour or she or he will be in violation of this section.

(2) not printed

(3) A person in the process of towing or removing a vehicle or vessel from the premises or parking lot in which the vehicle or vessel is not lawfully parked must stop when a person seeks the return of the vehicle or vessel. The vehicle or vessel must be returned upon the payment of a reasonable service fee of not more than on-half of the posted rate for the towing or removal service as provided in subparagraph 6. The vehicle or vessel may be towed or removed if, after a reasonable opportunity, the owner or legally authorized person in control of the vehicle or vessel is unable to pay the service fee. If the vehicle or vessel is redeemed, a detailed signed receipt must be given to the person redeeming the vehicle or vessel. (4) (5) (6) not printed

(7) Any person or firm towing or removing any vehicles or vessels from private property without the consent of the owner or other legally authorized person in control of the vehicles or vessels shall, on any trucks, wreckers as defined in s. 714.78(1)(c) or other vehicles used in the towing or removal, have the name, address, and telephone number of the company performing such service clearly printed in contrasting colors on the driver and passenger sides of the vehicle. (last sentence not printed)

(8) (9) not printed

(9)(b) The requirements of paragraph 9 are minimum standards and do not preclude enactment of additional regulations by any municipality or county including the right to regulate rates when vehicles or vessels are towed from private property

(3) not printed (4) When a person improperly causes a vehicle or vessel to be removed, such a person shall be liable to the owner or lessee of the vehicle or vessel for the cost of removal, transportation, and storage; any damages resulting from the removal, transportation, or storage of the vehicle or vessel; attorney's fees; and court costs.

For the full text on towing for the State of Florida go to [www.flsenate.gov/Statutes/index.cfm](http://www.flsenate.gov/Statutes/index.cfm)

This is just a brief summary of the towing laws of the State of Florida. Please check the ordinances of your county for their ordinances on towing ■

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## A LITTLE OF THIS AND A LITTLE OF THAT!

Please check the label on the envelope that the Newsletter arrives in. The first number indicates the amount due. The second number indicates the month dues are due. And, the third number is the year dues are due. Please check the label to be sure your information is correct. If there are any errors or changes, please call Secretary Florence Weber at 376-2001.

When you have your annual meeting, please notify the secretary of any change in board members, especially the president. Most Newsletters go to the president and if the secretary of CONA isn't notified, the Newsletter will go to the wrong person. Thanks for your cooperation.

I apologize for the typo errors. For those who caught this one...I know how to spell READ. I'm in good company, because I see lots of typo errors in magazines, newspapers, and other print vehicles. ■

**THE DANGER OF TERMINATING A SERVICE  
CONTRACT**

Your landscaper broke another sprinkler head. The company clearly had to go, so you went to the Association's file and reviewed the written contract. Much to your dismay, you found that the contract did not expire for another 14 months, at \$1000.00 per month. However, you did find the following clause:

Section 1.3. Termination/Default By Contractor. This Contract may be terminated in whole or in part by the Association if the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with this Contract or fails to perform a material provision of this Contract.

Because you were certain that the landscaper had defaulted, you wrote to the company's president terminating the contract. By return mail you received a letter from the landscaper's attorney claiming that you, not his client, has breached the contract. To make matters worse, the attorney made a claim for \$14,000.

When no compromise was reached, the landscaper filed suit against the Association. Where do we go from there?

**POWER TO TERMINATE:**

While many variations exist, service contracts typically contain one of the following two types of termination clauses:

1. The contract may be terminated for any or no reason upon giving the contractor a designated notice, or
2. The contract may only be terminated if the contractor defaults.

Of course, if the first of these termination clauses exists, the possibility of becoming engaged in a contract dispute such as outlined above is very much limited.

However, in our fact pattern, Section 1.3 only permitted the Association to terminate the landscaping contract if the Contractor defaulted or persistently failed or neglected to carry out the Work in accordance with the contract or failed to perform a material provision of the contract.

**WHAT IS A BREACH AND WHO MUST PROVE THAT IT  
OCCURRED:**

While it is beyond the scope of this article to go into a detailed explanation of when a breach occurs, the language contained in above cited Section 1.3 is a good general statement of what it means to breach a contract.

Most important is the fact that, if the parties disagree, the Association must prove to a judge or jury that a breach actually occurred. This can be a long and expensive process and the outcome is typically uncertain.

**WHAT HAPPENS IF THE ASSOCIATION WAS WRONG:**

Unfortunately, in our case the judge found that the Association wrongfully terminated the landscaping contract. This means that the judge must now decide how much the Association must pay to the landscaper. As to this issue, the recent case of RKR Motors vs. Association Uniform Rental & Linen Supply, Inc. 31 FLW D2646, confirms that the damage for wrongful termination of service contracts is typically the "lost profits" of the service provider.

In its simplest terms, "lost Profits" are computed by subtracting the service provider's costs of performance from the unpaid portion of the contract price. If we apply this concept, the landscaper would be entitled to all of the remaining sums that should have been paid (14 months at \$1000.00 per month), less the costs that it would have had to pay to perform the remaining portion of the contract.

Typically it is a simple matter to determine the amount of money that a service provider would have received if the contract had not been wrongfully terminated. However, it is much more difficult to identify the costs which would have been incurred had the contract not been terminated. By way of example, while both RKR Motor and Association Uniform Rental & Linen Supply generally agreed as to the unpaid contract amount, they had wildly different opinions as to the costs which should be deducted from that amount to calculate the "lost profits."

As expected, RKR Motors took the position that, based on the size of the contract in relation to the size of the company, only sales tax, the cost of the garments, the cost to launder the garments, the cost to wash the garments, and the cost to repair and maintain the machines should be considered to be costs. Based upon this calculation, and after reducing those costs from the unpaid portion of the contract price, Association Uniform Rental & Linen Supply claimed that it was entitled to \$82,444.00 in "lost profit" damages.

On the other hand, RKR Motors argued that the court should also take into account a percentage of the fixed expenses such as salaries and rent of the service provider thereby substantially reducing the damage claim to \$10,437.00. Unfortunately for RKR, the court agreed with the service provider and awarded a judgement in the amount of \$82,444.00

In our case, clearly a portion of the cost of labor and materials (gas, oil, etc.) would be deducted from the amount that must be paid to the landscaper. However, as with RKR, the amount of such reduction will depend on the particular circumstances of the community and the landscaper.

For most Associations, any amount of lost profits paid to the service provider is money that the Association does not want to spend. Therefore, prior to terminating a contract, we recommend that you consult with your attorney to determine if the contract can be terminated and, if so, the proper procedure for doin so.

The information contained in The Association e-Lawyer should not be acted upon without professional legal advice. The opinions expressed herein are as of the date hereof, and this law firm undertakes no obligation to advise the Association of subsequent changes to the law.

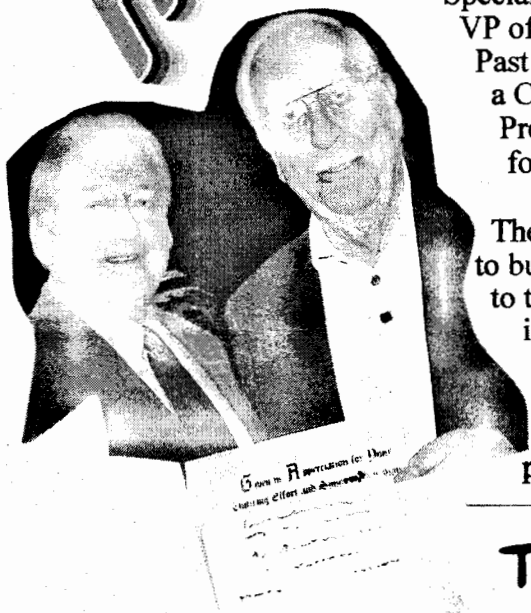
# HOLIDAY

# BREAKFAST

*December 13, 2006*

Special Guests - Mel and Betty Phillips.  
VP of C.O.N.A. Ron Hubbs (behind Betty)  
Past President Mel Phillips was given  
a Certificate of Appreciation, by  
President Dominick Scannavino,  
for his ten years of service with  
C.O.N.A.

The Board of Directors pitched in  
to buy Mel and Betty gift certificates  
to their favorite restaurant. Betty is  
included in this appreciation  
presentation because she  
put up with Mel's many  
disappearing acts while  
performing his duties for C.O.N.A.



## THE STARS



## DOOR PRIZE DONATIONS

Chocolates by Michelle - Gulf View Mall - Box of chocolates

Crown Bank - Bayonet Point - large pkg - coffee pot, coffee, cups, desk lamp, etc.

Publix - Lakeland Office - two \$25 certificates

Sioux City Steak House - Little Road - two \$10 certificates

The Breakfast Station - Hwy 19 - Port Richey - two \$5 gift certificates

Sally and Herbert Schlender (treasurer and spouse) - large can of cookies, candy, pen & pencil at each seat - and  
note pads for guest invitees

Impact Pest Management, Inc. - basket of wines

Luke Brothers, Inc. - \$50 gift certificate for Fleming's Steak House