

Advisory Council on Condominiums  
August 31, 2007  
4700 Millenia Boulevard  
6<sup>th</sup> Floor Conference Room  
Orlando, Florida

Meeting called to order at 9:05 a.m.

Members Present

Chair Mike Andrew  
Vice-Chair Peter Dunbar  
Michael Cochran  
George Geisler  
Karen Gottlieb Tysenn  
Melissa Van Dine  
Paul Wean

Division Staff Present

Carol Windham

MOTION: Vice-Chair Dunbar, to approve meeting minutes of July 27, 2007

SECOND: Member Geisler

VOTE: Motion carried unanimously.

Verification of timely publication of meeting notice in Florida Administrative Weekly.

LEGISLATION

Vice-Chair Dunbar discusses possible budget cuts in state government and upcoming legislative sessions (regular and special). Also discusses Secretary Benson's proposal for budget cuts that relate to the jurisdiction of the Division; these changes would require legislative action. Asked that Member Cochran explain in more detail; Member Cochran discusses state budget cut exercise; agencies were asked to perform 10% cut exercise but they don't know what will be cut (or not cut ) or by how much. The numbers have been delivered to the Governor; the Legislature and the Governor will make the decisions. Division's suggested budget cuts include deleting the condominium education contract and making cutbacks on travel and other expenses.

Vice-Chair Dunbar stated that the Division's proposal showed reduction of \$673,000, and asked how this would be done without cutting programs or staff. Member Cochran stated that he has not seen this document. Vice-Chair Dunbar stated that it came directly from Secretary Benson and the Governor's website. Member Cochran recants earlier statements about proposed budget cuts and agrees that this 39% reduction relates to the reduction of the Bureau of Compliance's jurisdiction. Vice-Chair Dunbar believes that support has already started for keeping the Division's education contract in place. Also stated that he supports idea of changing the Division's jurisdiction but feels that Division is retaining too much jurisdiction. Compliance should retain financial issues but remaining issues should have remedy of arbitration. Also thinks Division should screen and certify educational providers; once materials/curriculum are approved, the provider could give programs across the state.

Harry Charles; President, Space Coast Community Association: Stated that CAI courses are good courses. However, he felt that the same people attend classes; they don't reach new faces and large percentage of directors in Florida. Has been proponent for many years of the Division's educational CD.

MOTION: Vice-Chair Dunbar; that the Council approves the recommendations of Secretary Benson with certain specific modifications.

SECOND:  
VOTE:

MOTION

RESTATED: Vice-Chair Dunbar; that the Council endorses the recommendations of Secretary Benson to modify the jurisdiction of the division, with noted exceptions to follow.

SECOND: Member Geisler  
VOTE: Motion carried unanimously.

Noted exceptions discussed: (1) division should only retain financial issues; elections and records should be moved to arbitration. (2) If proposal to eliminate 12 positions is pursued, with the change from compliance, should consider adding 3 more arbitrators (approximately) to ensure that additionally contemplated disputes could be handled.

MOTION: Vice-Chair Dunbar; to recommend that elections and records issues be moved to mandatory non-binding arbitration

SECOND: Member Wean  
VOTE: Motion carried unanimously.

MOTION: Vice-Chair Dunbar; that "financial issues" include the failure to carry out the financial affairs of the community in accordance with GAAP; competitive bidding, self dealing requirements and failure to comply with reserving components of the statute.

SECOND: Member Gottlieb-Tysenn  
VOTE: Motion carried unanimously.

MOTION: Member Wean; that financial issues recommended by the Council to be retained in Division's jurisdiction not include investigation of discretionary spending in relation to the exercise of business judgment under a properly adopted budget or property adopted special assessment.

SECOND: Vice-Chair Dunbar  
VOTE: Motion carried unanimously.

### EDUCATION

Discussion ensued regarding Council's previous recommendations that Legislature consider modifying mission of Division so that education programs can be approved by Division and posted on website – making classes more widely available. Vice-Chair Dunbar felt that idea of eliminating education program is troubling. Stated that he would like to see way to incentivize education programs. New unit owners could go on division website and find program in their area – like Space Coast Condominium Association and

MOTION: Member Wean; to recommend that Secretary Benson take the proposed deletion of education contract and then use such money as is available to privatize by certifying education groups and by further publicizing those

educational opportunities on the division website; recommend that division continue to improve, produce and distribute educational cds; and consider proposal that would require legislation to require mandatory education for directors prior to re-election to office.

SECOND: Member Gottlieb-Tysenn  
VOTE:

#### AMENDED

MOTION: Member Wean; to recommend that Secretary Benson take the proposed deletion of education contract and then use such money as is available to privatize by certifying education groups, and further publicizing those educational opportunities on the division website; recommend that division continue to improve, produce and distribute educational cds; and that division look at possibilities of mandatory education, incentivizing and expanding education available for directors.

SECOND: Member Gottlieb-Tysenn  
VOTE: Motion carried unanimously.

#### PUBLIC INPUT

Lou Biron; insurance professional, Orlando. Discussed general insurance crisis in Florida and pointed out issues in Section 718.111 that need attention. Felt that it's a question of getting Section 718.111(11) to the point where it is clear and positive to the consumer and the seller. The previous attempt to do this, and simplify, made it worse and less clear. Unit owners are dealing with a complex legal document, regulated by a complex statute. The more the Council and Legislature can do to make it clear, the better. Section 718.111(11) needs to specify who buys what insurance and how it is adjusted when an event happens. Simplest way of getting back to it goes to bare wall approach. On inside of wall, unit owner takes care of it. Clear but not necessarily the best approach – raises the cost for consumer. How insurance would flow – what would fall to unit owner to maintain, should be insured by unit owner. Thinks this idea has merit but creates additional complexity to insurance company. Agent & adjuster will then have to be in business of reviewing documents when issuing policies or handling claims. Could create more confusion than simplicity we are searching for. Insurance professionals are not schooled in this area and will cause more inconsistencies. Letting it fall back to documents still needs something clearly defined in statute. Bare walls is pretty simple but has drawbacks. Not so sure that definitions included in statute now couldn't be spruced up and made more clear. Second major issue – deductibles. Major issues in state; when you're talking about 5% wind deductible per building – some insurance companies want that applied to each wind incident, not just named hurricanes. Creation of proper management of deductible within scope of statute is very important. Good ideas in Council's draft; the question of apportioning and management of deductible is very important. Asks that council strongly consider clarifying this in statute and make it easier for people to understand rules and responsibilities.

Also discussed mandatory appraisals; if statute requires that association must maintain an appraisal every 1.5 years, 3 or 5 years, then we can establish by a professional for a minimum requirement of what a building should have. Should be basis of coverage in policy.

#### RESERVE THRESHOLDS

Current draft was prepared according to work at last meeting. Harry Charles reviewed draft and felt that thresholds need to be updated. Issue to be addressed after finalizing insurance language.

### HOME COURT ADVANTAGE PROGRAM

Member Wean discussed his draft changes to Representative Ambler's proposed program. Not a finished product; asked for ideas from Council members. Tried to meld this draft with current HOA mediation system: defining what a dispute is; allowing one owner to bring action against another owner. Discussion ensued regarding draft language; Vice-Chair Dunbar felt that Council needs to wait for Senate work product to see where proposal is going to go.

MOTION: Vice-Chair Dunbar; that Council is early on this issue; table until next meeting, when Council can review Senate work product looks like.

SECOND: Member Geisler

VOTE: Motion carried unanimously.

### INSURANCE ISSUES

Discussion ensued regarding how Council will approach the insurance issue as the next legislative session is fast approaching. Vice-Chair Dunbar will restyle draft language and Carol Windham will share with all members two weeks before the next meeting. The next meeting will be devoted to reviewing and editing draft language.

### NEXT COUNCIL MEETING

Meeting to be held on Thursday September 27<sup>th</sup>, 8:30 am, via teleconference

Meeting adjourned at 1:55 pm.