

**Loma Linda Subdivision Homeowners Association
Minutes of the Board Meeting
November 8, 2021**

The meeting, held via Zoom online, was called to order at pm 6:05pm by president, Bill Trimarco.

Directors present: Bill Trimarco, Rita Jensen, Tom Wennerlund. Members present: Sharon Jennings, Rick & Bernie Sautel, William Shriber, Barbara Hanrahan, Robert & Anne Farris, Harold Orner, Steve and Sheree Hendrix, Bill & Sherry Milligan, Sue Wells, Matt & Maggie Fischer, Lea Young, Jim & Grace Walter, Bill & Barb Remien, Al & Jo Myatt, Annie Pack, Randy & Joanie Wittenburg, Robyn Pfetzer, Shelley Baker, Clyda Elginer, Nancy Dorenkott, David & Jean Smith, Tom Highsmith, Molly Shriber-Cushing, Bob Shriber.

Minutes: A motion to accept the minutes of the October 12, 2021 Board meeting as corrected was made by Tom Wennerlund, seconded by Bill Trimarco, and approved by a vote of Tom-Yes, Bill-Yes. The Forest Service Easement issue will be left in the minutes as recorded; approval from the lawyer as to adding items not included on the original agenda. Corrections were made under New Business (2) Structures to quote the actual Bylaw verbiage and to clarify singular vs. plural.

Open Forum: No items presented.

Treasurer's Report: Tom reviewed the financials on screen as of October 31. Operating Account balance \$44,008.90; Reserve Fund balance \$22,609.92. He noted that some 2021 dues were paid in 2020 so the annual dues income does not show in the 2021 report. A motion to accept the financial reports as presented was made by Rita Jensen, seconded by Bill Trimarco, and approved by a vote of Rita-Yes, Bill-Yes, Tom-Yes.

Committee Reports:

FireWise: 1) Al thanked the Board for approving the 50% Chipper Rebate for residents from the Environmental Fund. Once the second phase Chipping date is set, chipping is complete, and individual invoices from residents are submitted the final invoice will be sent to the HOA. Presently, the HOA's portion to be paid to residents is \$675.00. FireWise Recertification is being worked on and will be reported once complete. 2) FireWise assisted three residents with mitigation and landscape projects; some residents assisted in removing dead trees. 3) Contact information for PAWSD was sent to Steve Hendrix. The material quote from Grand Junction Pipe in Durango was approximately \$4,700.

ACC: Jo reported requests received for a horse shelter on Loma Linda, a garage on Twilight, and a follow up on the dog kennels and storage shed on Buck.

Old Business

a1) Officer Election Results - Jean Smith reported that she and Doris Leitch met with Trish McInely. Ninety-seven ballots were returned electing Maggie Fischer to a three-year term; eighty-seven ballots were returned electing Bill Remien to a one-year term. Terms begin January 1, 2022. Results will be posted on the website and sent via email.

a2) CCR Amendment Ballot Results - 138 ballots were returned. Per CCIOA more than 50% of total votes are needed to pass any amendment. Of the eight proposed amendments only one, the Water & Sewer amendment passed with a positive vote, receiving over 50% of the needed votes so the CC&R will be changed. Document of this change must be signed and filed with the County. Results will be posted on the website and sent via email.

Amendment #1 /	Yes-68	In Favor 49.3%	
No-70	Amendment #2 /	Yes-112	In
Favor 82%	No-25 PASSED		

Amendment #3 / No-82	Yes-56	In Favor 41%
Amendment #4 / No-56	Yes-82	In Favor 59%
Amendment #5 / No-70	Yes-67	In Favor 49%
Amendment #6 / No-81	Yes-57	In Favor 41%
Amendment #7 / No-61	Yes-76	In Favor 55%
Amendment #8 / No-71	Yes-67	In Favor 48.6%

b) Mailbox Drainage & Fence Repair - Projects are on the contractor's list, but they are behind.

c) ACC Violation Letter - A motion to draft a letter to thirteen residents asking them to ensure their weeds are dealt with earlier next year was made by Bill Trimarco, seconded by Tom Wennerlund, and approved by a vote of Bill-Yes, Tom-Yes, Rita-Yes. Discussion: It is too late to require action this year. Fines will not be charged for 2021.

d) 2022 Budget - The proposed budget was posted on the website. A motion to accept the budget for 2022 as presented was made by Rita Jensen, seconded by Tom Wennerlund, and approved by a vote of Rita-Yes, Tom-Yes, Bill-Yes.

New Business:

a) Shriber Kennel Appeal - Tom gave an overview of the details of the original application for kennel fencing, dog houses, and a storage building along with the appeal by the property owners to the HOA. The Board reviewed the proposal, and all documents and plans were clarified. Molly was thanked for providing answers to all questions asked by the ACC chairperson. Their plans were comprehensive and clear. A motion to allow the Shriber's to proceed with the plans as posted was made by Bill T and approved by all Board members. Approval in writing will be given to the Shribers by the Board. William offered to provide the plans to interested residents or it can be requested in writing from the Board.

b) Forest Service Easement - A County map of the area off Eight Mile Loop was displayed; there is a 10' wide utilities easement and a 15' wide easement between two properties; the existing fence line is partially correct. Lots 70 and 77 are owned by the Bradford's. The Board received a Memorandum of Understanding from them. They wish to amalgamate the lots and asked to move the easement to the east side between their property and the Hendrix property. The owners would pay for surveys, fees, brush clearing, etc. There was considerable discussion from those who use the easement for hiking/skiing about the steep incline of the proposed new area, the need to move fencing, add new signage, remove trees, have owners use a gate system to get from lot to lot, obtain County agreement and change platted boundaries, etc. The reason for changing a previous decision from Against to For dealt with perceived ease of moving the easement which would allow hikers to walk in the woods rather than next to someone's home where animals have been antagonized. It was stressed that the easement had to be protected, middle ground should be reached, and that action must be best for the community as a whole. The Board withdrew the original motion to accept the MOU, agreed to table the MOU, pursue other options with the Bradford's due to the number of concerns raised, and not take a vote at this time.

c) Resident Complaints - Written complaints were received from residents on how the Board handled the proposed CC&R amendments, how the ACC was conducting their business, and incorrect timeline regarding an illegal road. A motion to enter complaint letters by Robert Farris, Matt Fischer, and Al Myatt into the public record as part of the HOA Board minutes, and document that all matters had been settled previously was made by Bill Trimarco, seconded by Tom Wennerlund, and approved by a vote of Bill-Yes, Tom-

Yes, Rita-Yes. Bill T stated that once business has been voted on by the Board on any issue it should be considered finished.

d) CCIOA - Bill explained the reason for the Colorado Sunshine Law and his intent to ensure we follow those laws. All meetings must be public, and meetings of the Board cannot be conducted outside of published meetings; things should be out in the open; we must be careful not to skirt gray areas.

The next regular Board meeting will be Monday December 13 at 6:00pm and will be held via Zoom online due to the high rate of COVID cases in the County leaving Pagosa Springs at elevated risk; it may not be feasible to find a venue that allows for social distancing.

A motion to adjourn the meeting at 8:03pm was made by Rita Jensen, seconded by Tom Wennerlund, and approved by a vote of Rita-Yes, Tom-Yes, Bill-Yes.

Sharon Jennings
Recording Secretary

The following statement is a rebuttal to proceedings at a previous HOA Board meeting. It was requested to be read into the minutes. The Loma Linda Homeowners Association Board of Directors assumes no responsibility for any of these statements.

To the Loma Linda HOA Board,

I recently read the Loma Linda HOA Board's alleged allegations that were posted on the Loma Linda web site communicated by the Chair.

The statement in your first alleged allegation referencing the following, "spouse of ACC Chair "encouraged" this road building project by supplying road building information to the resident" is not accurate and paints a false picture.

I did not know and had never met Tom and Angie Nguyen. I do not encourage nor was I involved in the planning or implementation of this project to construct a snowmobile/walking trail between the Nguyen's two properties at 423 San Juan and 1458 Loma Linda Dr.

After the HOA Chair called the ACC Chair, and the ACC Committee got involved, I thought that there may be an opportunity to visit with the Nguyens about Firewise, and pulled together a packet of Firewise Information for their review.

During our visit we spent some time talking about wildfire mitigation principles and practices they might consider implementing. I also noted that they had already done some pruning.

Tom also showed me his new project.

Later I gave him some helpful tips along with a copy of a BMP (Best Management Practices) Manual.

I thought that there may be some tools and management ideas in this document that may be useful on drainage and reducing possible erosion problems.

I also provided Tom with a roll of erosion mat and straw rolls called Wattles for him to try.

It was interesting that it took three years to bring your concerns to my

attention. I am certainly not Perfect--every day is a learning experience. In the future, if you have questions or concerns about something please let me know immediately. I will be glad to address them.

A closing thought, in keeping with The HOA Chair's communications on the importance of transparency for the residents, the HOA Board may want to consider providing an opportunity for the ACC Committee and residents to provide more in-depth feedback on the alleged allegations that were communicated by the HOA Board Chair.

It is all about community service, expanding teamwork and communication to build trust and relationships throughout the community.

Please note this correction during the next Board meeting so it can be included in the minutes.

Thanks,

AI

AI Myatt, Forester/Natural Resource Specialist, Ret.

Loma Linda Firewise Ambassador

1735 Loma Linda Drive

Pagosa Springs, CO 81147

The following statement is a rebuttal to proceedings at a previous HOA Board meeting. It was requested to be read into the minutes. The Loma Linda Homeowners Association Board of Directors assumes no responsibility for any of these statements.

We are writing to share our concerns about the board continuing to allow President Bill Trimarco's bullying, threatening, and argumentative approach which he continues to display towards members of our community and more specifically members of the ACC. Despite the fact that Mr. Trimarco was previously found to be in violation of the HOA's Policy and procedures pertaining to conduct, he has continued his unfounded attacks and accusations with no repercussions from the other board members. This vendetta to quiet anyone who disagrees with Mr. Trimarco's point of view takes up much of the community's time in ACC and Board meetings. Furthermore, many of his accusations are fraught with misleading or false information. You will see in the examples following that Mr. Trimarco has often contradicted his own words as taken from previous meeting minutes, and in some cases manipulates or simply changes things to support his position. All of these issues are leading our community to lose faith and question many of the actions of the board and committees – including the recent voting for changes to CC&Rs as well as the election of board members.

Below are just a few examples of instances where Mr. Trimarco has continued to mislead the board and this community while not following HOA policies and procedures pertaining to conduct and other rules. Even if the current board cannot understand Mr. Trimarco's motivations for these attacks, they surely can understand the damage such attacks continue to cause our Loma Linda Community. It is our hope that over the remaining few months of Mr. Trimarco's term of office that the board will insist that he refrain from making negative, vindictive and false statements and actions and allow this neighborhood to begin the healing process and move forward in a more positive and productive fashion. We would also ask that this document be added to the Nov. Board meeting minutes as an addendum and response to Mr. Trimarco's accusations, labeled "Notable Instances of Arbitrary Rule Enforcement" which were added as an addendum to the September 13, 2021 minutes.

September 13, 2021 HOA Board Meeting – Approximately 50% of this meeting was used as a platform by Mr. Trimarco to disparage community members. His tirade ended with a failed motion to remove Jo Myatt as Chair of the ACC. Examples follow below, including excerpts from his Sept. 13 Addendum to the Minutes as well as other HOA board and ACC minutes and documents.

EXAMPLES

#1 Exact Excerpt from Mr. Trimarco's Sept 13, 2021 Minutes Addendum

2018 road built between 423 San Juan and 1458 Loma Linda Dr.

- No approval from ACC
- >20 foot grade change
- Slope exceeds County specs for driveways
- Spouse of ACC Chair encouraged this road building project by supplying road building information to the resident.

Exact Excerpt from HOA Sept. 10, 2018 HOA Board Meeting Minutes

“Unapproved Road Construction - **Bill noted** that an excavator cut a walking/snow mobile path on a resident's hillside between San Juan and Loma Linda and expressed concern over erosion of the hillside, loss of vegetation, and that **this action didn't receive ACC approval in advance**. Mark contacted the ACC and the property owners in question who have said they will do what is necessary to make it right; they are trying to work it out together.”

False or Misinformation: Mr. Trimarco implies that the ACC is somehow at fault for the homeowners not getting approval before building what he now calls a “road” but before called a “walking/snowmobile path”, for the grade change and for the slope. He further falsely accuses Mr. Myatt (spouse of the ACC Chair and retired forester with knowledge and expertise in the area of erosion control) when in fact the information Mr. Myatt provided was **AFTER** the road was built and part of the “make it right” solution.

#2 Exact Excerpt from Mr. Trimarco's Sept 13, 2021 Minutes Addendum

Antagonistic attitude towards the Board

- On July 6, 2021, Jo Myatt sent a letter, signed by the other four ACC members plus two other lot owners, encouraging them to cease following the Approved Policy on Amendment proposals and to instead follow a different procedure of their own choosing. The Board members were given a deadline to respond.
- While this action is not a direct violation of any laws or Covenants, it is suspicious and confrontational when the Committee tasked with enforcing the rules is actively advocating the Board to not follow its own rules.

False or Misinformation: The facts are this letter had **NOTHING** to do with the ACC, it is simply a group of 13 residents voicing their opinions, which in this case were not in line with Mr. Trimarco's. The only relation to the ACC was that 5 of the 13 residents who signed the letter also happen to be volunteers who serve as appointed ACC members.

#3 Exact Excerpt from Mr. Trimarco's Sept 13, 2021 Minutes Addendum

The Board received a written complaint on May 12, 2021, regarding fence placement. As outlined in the Procedures, the Board directed the ACC to investigate and provide the Board with details. The ACC member with the fence in question said that 3 surveys had been conducted and the fence was in the proper location. The member refused to allow the Board to inspect the latest survey. At the June 2021 ACC meeting, it was announced that the matter was closed. The Board was not consulted prior to that decision.

Exact Excerpt from June 7, 2021 ACC Meeting Minutes

"A. Alleged concerns by homeowner regarding fence placement. The committee reviewed the communications that had occurred. Based on this information, the committee agreed unanimously that the issue was considered closed and a report would be given to Bill Trimarco, HOA president, who had presented the complaint, stating this is considered closed."

False or Misinformation: Not sure why this is even listed as an accusation. Per Policy, the ACC researched this lot owner's complaint, found there to be NO violation. They discussed and closed the matter at the ACC June 2021 meeting. As normal they reported their findings and subsequent closing of the matter at the next HOA Board meeting, June 14. Mr. Trimarco sent an email to the Owner who was challenged with the complaint on June 15th. Here is an excerpt from that email from **Mr. Trimarco in his own words** –

"I totally understand. I will inform xxx that **your fence is in compliance and the matter is closed.**

As someone who has been on the receiving end of this type of behavior in the past, I am sorry for what you are going through and hope that things will settle down with this decision in support of your fence."

#4 Exact Excerpt from Mr. Trimarco's Sept 13, 2021 Minutes Addendum

- A) "Meeting minutes that do not reflect what occurred
□ July 5, the committee voted to provisionally approve two horse shelters. The minutes say that the structures and number of horses allowed were rejected. "

False or Misinformation: Here we have a simple difference in memories. There are at least 15 individuals that attended this meeting (many of which have collaborated on this document), that will attest to the fact that the **meeting minutes ARE accurate**. The provisional shed request was **denied**, with three votes no, and one vote yes, just as the minutes indicate.

- B) "Committee members agreed while shouting and talking over each other"

False or Misinformation: Most of the "shouting" was actually done by Mr. Trimarco and his wife Lisa Jensen as they attempted to sway the ACC members with threats that there was precedent set by prior boards allowing more than 2 horses per lot. When member residents attending the meeting were seen in their individual zoom cells shaking their heads in either agreement or disagreement Mr. Trimarco yelled out – "you can shake your heads all you want but there is a precedent". Again, continued attempts to bully or threaten others so as to keep them from disagreeing with him. As the discussion continued Mr. Trimarco's wife, Lisa Jensen shouted "there is a precedent".


***One more important note** - At this year's summer picnic in a similar attempt to squash and publicly humiliate a resident who merely shook his head in disagreement with something Mr. Trimarco was saying, Mr. Trimarco called out the resident by name and yelled out a similar statement that the resident can shake their head all they want...

- C) "Board had previously ruled that two horses were allowed per lot....."
D) "Jo refused to follow the directive of the board"

Exact Excerpt from HOA Jan. 2012 HOA Board Meeting Minutes

Unfortunately, the online records or link to these minutes does not work, below is a scan of a hard copy of those minutes which are the comments from the HOA's lawyer on the matter.

Per the legal opinion of Hindman Sanchez, "The Board of Directors has general authority to make business decisions in good faith, prudently, and in the best interests of the Association, even if such decision could be contrary to the governing documents. This would include granting a variance to the above restriction if circumstances make the decision prudent and in the best interest of the Association."



We would actually argue that in granting a single property owner a **VARIANCE*** to allow more than 2 horses per lot is **NOT** “prudent and in the best interest of the Association”. Regardless, this legal opinion clearly states that this is a **VARIANCE* and not a precedent** and is up to the sitting board at the time the request would be made by the owner. Each individual request is treated as a separate request for a variance and must stand on its own merits – not the simple fact that a previous board made a bad ruling or granted a specific variance.

False or Misinformation: The “precedent” referred to is in fact a **VARIANCE*** and thus NOT a “directive” from the board that Mr. Trimarco accuses Jo Myatt of refusing to follow.

***Important notes:**

a) Mr. Trimarco currently accuses the ACC of granting too many variances, yet here he contradicts himself by encouraging the ACC to provide a variance for something he favors.

b) Mr. Trimarco was specifically named in the July 5, 2021 ACC meeting by the prospective buyer who stated that Mr. Bill Trimarco told him that he could have 3 horses. This entire issue was the result of Mr. Trimarco’s misleading info provided to the prospective buyer and is also a **GROSS overstepping** of his authority as HOA Board President.

E) “the prospective buyer backed out of a cash deal.....worth approximately \$1M.”

False or Misinformation: Per Zillow, and Archuleta County Property Records, the lot in question sold Sept 9, for \$22,000 more than the asking price a week **BEFORE** the board meeting and Mr. Trimarco’s accusations. It is reasonable to assume that there is **NO** legal liability heading towards the HOA on this matter as Mr. Trimarco insinuates. And once again an attempt to misinform the board to encourage them to act to remove ACC members or the committee in its entirety.

#5 Exact Excerpt from Mr. Trimarco's Sept 13, 2021 Minutes Addendum

"Nancy Dorenkott of the ACC has hired a lawyer....."

Exact Excerpt from the LLHOA Policies and Procedures regarding Board Member Conflicts of Interest

"7. – Code of Ethics:

(h) – No Director shall harass, threaten, or attempt through any means to control or instill fear in any member, director, or agent of the Association."

False or Misinformation: Again, why is this an ACC accusation – Simply because Mrs. Dorenkott has volunteered her time to be on the ACC, does not mean that the Dorenkotts as residents of Loma Linda forfeit their rights to hire a lawyer to ask question about procedures and things they feel might be inappropriate. We offer that based on the above Policy and Procedures that MR. Trimarco's accusation in fact pose more of a threat or form of harassment than someone hiring a lawyer, and is therefore once again in violation.

#6 Exact Excerpt from Mr. Trimarco's Sept 13, 2021 Minutes Addendum

"Weed violation warning letters...."

Upon researching this accusation, it was found that the 1st and 2nd issuance of "weed letters" this year (2021) incorrectly used a previous version from the prior year that the **BOARD had written for the ACC to use**. The ACC has informed the Board of this mistake and apologized.

The letters used this year were one of the earlier versions written by the board.

Exact Excerpt from Dec. 9, 2019 and Sept. 14 2020 HOA Board Meeting Minutes

Dec 9, 2019

"ACC Procedures discussion—Don brought up a series of letters used in the past the ACC and suggested moving to a set of possible **"Fill-in-the-blank" form letters instead, approved by the Board, that ACC could use**. Don will work with the ACC to set up needed form letters as part of his ongoing activity with the ACC."

Sept. 14, 2020

Final ACC Violation Warning Letter: Don Haywood presented the third version of the Notice of Covenant Violation Policy Enforcement which would be sent by the ACC after receiving no response to letters 1 or 2 and where no action has been made to rectify the violation. **A motion to accept the third revision of this letter was made by Bill Trimarco**, seconded by Don Haywood, and approved by a **vote of Bill-Yes, Don-Yes, Cathy-Yes**.

False or Misinformation: Board HOA minutes from Dec 9, 2019 through Sept 14, 2020 many of which are included above show-

- 1) **The board undertook a project to rewrite the "Warning Letters" the ACC uses for ALL CC&R violations** as well as the Policy pertaining to notification, enforcement, and fines.
- 2) During this time MANY updates of the letters were developed.
- 3) **The BOARD is actually the authors of the warning letters and that the ACC simply "fills in the blanks" with the CC&R in violation as well as the address of the property owner.**
- 4) **The board actually reviews and sends out the letters that the ACC prepares.**

It is unclear why Mr. Trimarco continues to accuse the ACC for issues with the Warning letters when in fact **the board is responsible for the form letters** the ACC utilizes and are the **final reviewer of letters BEFORE** they are sent out.

Supporters

Matt Fischer
Pat Amstein
Monika Amstein
Shelley Baker
Steve Baker
Nancy Dorenkott
Ken Dorenkott
Robert Farris
Anne Farris
Steve Hendrix
Sheree Hendrix
Lea Young
Carolyn Schwulst
Dave Parker
Linda Parker
William Milligan
Jo Myatt
Roger Puryear
Judy Puryear
Bernie Sautel
Rick Sautel
Randy Wittenburg
Joanie Wittenburg