

# Forum for Dialogue

## Marina Hills needs a forum for dialogue to practise democracy

Marina Hills has 1,538 homes and condominiums, thus there are about 1,538 families with, let's estimate, about 5,000 family members.

On any given subject concerning Marina Hills matters, there will be many, often conflicting opinions. That is OK, reconciling those diverse opinions is what democracy is all about.

Some residents may have a lot of knowledge about a particular subject, like a homeowner from Bel Fiore, who had scientific knowledge on what particular fence color would cause the perception of the 'disappearing fence'.

Presently, in Marina Hills there is no forum that allows any form of dialogue with the elected and appointed board members. The Directors keep their phone numbers secret. There is no possibility for dialogue; in fact, the present Directors barricade themselves and forbid such a dialogue.

Therefore, for a newly elected democratic board (SaveMarinaHills is working hard to achieve that!), we suggest an open door policy that incorporates any or all of the following opportunities for dialogue:

- A telephone number with voice mail for some or all board members

- A web-based discussion board where upcoming decisions are announced before they are made and members can post questions and statements (virtual town hall meetings)
- An open office of one or several board members for an hour (or however long it takes) a week, so members can directly engage in a two-way dialogue with directors. This, of course, requires the board members to be knowledgeable about the basic facts.

In a democracy it is expected that there are different opinions and viewpoints. Better, and above all, more popular decisions, can be achieved by exchanging thoughts and ideas between people with diverse views. ©

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- **Term Limit Petition ignored by Board!**
  - **What are the options for the petitioning homeowners?**
  - **Board still avoids answering homeowners' questions regarding commingling!**
  - **Only three Board Members present during February Board Meeting**
  - **Board secretly reverses itself rehires security guard with history of abuse**
- Read More inside this newsletter.**

### Feedback from last month's newsletter.

*This attorney is not working on the homeowners' behalf. FIRE him!!! We need to review his invoices.*  
15-year Monaco Homeowner 0402021018

*Well, they have painted our fence black... We feel that this damages the value of our home. It looks commercial and cheap.*  
Bel Fiore Homeowner 0402021439

*I agree, Cheryl should go. Most of the time when I called the office she was not there. When I went there in person, she was always on the phone. She would say over the phone 'wait a minute'. Apparently she was chatting on the phone.*  
Marina Hills Homeowner 0402070903

*Keep up the good work! ... I have gotten the overall feeling that there is no accountability for the board and Cheryl Wilson. ... Cheryl Wilson acts if she doing you a favor and she is not working for all the homeowners.*  
Marina Hills Homeowner 0402091444

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**Come to the next Board Meeting on Wednesday, March 10, at 6 P.M.**  
*Jane Dry has promised that the meeting will not be rescheduled surprisingly*

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## Reestablish a democratic decision making process in Marina Hills

### Contact Keystone

Please contact Cary Treff, President of the Marina Hills management company Keystone Pacific (\$111,000 annual contract), to express your concerns about the Marina Hills Directors ignoring the term limit petition from 100 Marina Hills homeowners. Cary Treff's personal phone number is 949-838-3238. ©

### Food Drive

This year, just like many years before in February, Marina Hills has had an Annual Food Drive. Collecting food for the needy is obviously a laudable pursuit and many families have donated food over the years.

It appears, however that the organizing and administration of what should be a volunteer activity, is one of the main tasks of the Activities and Facilities Director Cheryl Wilson for that month.

During the February Board Meeting Mrs. Wilson, in her capacity as Employee of the Board, while reporting about her official tasks, spoke about the food drive.

Is Mrs. Wilson paid by HOA funds during her food drive activities? Did Mrs. Wilson climb up the walls of the club house to hang up the banner advertising the food drive, or was a homeowner paid association vendor employed to mount the sign?

At the close of escrow, when we all acknowledged the CC&R documents, was there any mention that part of our monthly dues were used for disguised volunteer activities? ©

## Term Limit Petition Dead or Alive?

Directors, in violation of CC&Rs, refuse to call meetings and deny members a chance to vote

Certainly, the term limit concept is reasonable. We don't want the same few people controlling our \$2 million annual budget for their entire lifetimes. Presently there is at least the appearance of impropriety, especially considering that the Directors to date have refused to adopt a non-gratuity agreement, like the vast majority of other non-profit and even for-profit entities have done.

Absurdly, the stated rationale for not adopting such a non-gratuity agreement was that the directors would 'appear to be dishonest.'

Additionally we, the homeowners, are systematically excluded from participation in the affairs of the association.

There is simply too much temptation and conflict in the hiring of contractors for our association. Single contractors get

as much as \$500,000 per annum for their basic charges.

**Do we need to know anything else before we implement term limits?**

The 20-day period, which started with the presentation of a signed petition from about 100 Marina Hills homeowners to the Board of Directors during the January 13, 2004, Board meeting, ended on February 3.

By that time, according to the CC&Rs/Bylaws the Directors should have given notice about a meeting, and they should have mailed proxies to all homeowners. These proxies and the meeting would have given the homeowners a chance to vote on term limits for the Directors of the Board. Instead the Directors violated the CC&Rs/Bylaws (Section 3A03) and they are preventing the homeowners from voting on term limits.

Attorney Feldsott, on behalf of the petitioning homeowners, called the lawyer for the Directors, Tinnelly, on February 6, 2004. He received the following verbal answer from Tinnelly:

**Democracy is a device that ensures we shall be governed no better than we deserve.**

George Bernard Shaw

## February Board Meeting

Only three of the elected and appointed board members were present at the February 11, 2004, meeting: President Jane Dry, Treasurer Vito Ferrante and Member at Large Tom Szwajkos.

Since the publishing of this newsletter and since SaveMarinaHills has pointed out the close relationship of the Employee of the Board, Mrs. Cheryl Wilson, with the long time board members, Mrs. Wilson no longer sits at the Board's table together with the Directors, but rather stays in the background.

The meeting started with the usual landscape presentation from the \$500,000 per year vendor Villa Park.

Mrs. Dry announced that there still was an opening on the architectural committee. She

stated that this position was very important for Marina Hills and gave members an opportunity for democratic participation. Later during the meeting Mr. Hans Strupat, pointed out that some homeowners had applied several times for the vacant architectural positions, but had never even been called back by the Board. Mrs. Dry defended herself: "We just want to make sure that we select the best candidate."

Next, the Activities and Facilities Director Mrs. Cheryl Wilson reported on the completion of the pool work and on her activities with the 2004 Food Drive (see related story). She then stated that she had found a way to reduce the mailing cost of the newsletter. Later during the meeting

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RICHARD A. TINNELLY

- 1) The Directors of the Board will not answer the Term Limit Petition.
- 2) The Directors will not give the petitioning homeowners an explanation as to the reasons why the petition is not answered.

Richard Tinnelly

# Inquiry remains unanswered

Tinnelly's obscure response raises more questions than it answers

As reported earlier, a Villa Park employee (the company that provides HOA-paid landscape services to the common grounds of Marina Hills) was observed to work in the private yard of the Employee of the Board Cheryl Wilson and the then Director Calvin Wilson.



Villa Park worker Fernando working in the private yard of the Wilson residence on December 5, 2003.

SaveMarinaHills shared this disturbing information with all homeowners and asked the Directors of the Board in a letter from December 6, 2003, to provide an explanation and **proof** that no homeowner funds had been used to pay for the private landscape services of the Wilson Family or any other Director.

The Board could have swiftly addressed the problem and provided the curious homeowners with convincing and satisfactory information. Instead, the Directors of the Board took almost 8 weeks to provide a one paragraph answer in a letter from January 29, 2004, written by the lawyer for the Directors, Richard Tinnelly:

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Please be advised that the Board of Directors has taken the time to review this matter and receive input from all involved parties. As a result of their investigation, please be advised that the board has been provided with documentation, to its satisfaction, which confirms that all services provided to the Wilsons by Villa Park were made pursuant to a contract entered into between the Wilsons and Villa Park. Further, Villa Park was fully compensated by the Wilsons for all services rendered to them. Likewise, at no time did Villa Park provide services to the Wilsons other than those set forth in their contract with the Wilsons. In any event, to avoid any further confusion, Villa Park has advised that they will no longer contract with the Wilsons or any other Board Member or Employee of the Association.

Very truly yours, Richard Tinnelly

This letter raises more questions than it answers:

- no proof, such as cancelled checks from the Wilsons to Villa Park for the payment of services, as it had been requested, was provided
- no denial, as it had been requested, that any other association vendor had performed free services to the Wilsons or any other director was provided.
- no apology by the Wilsons or the Directors of the Board for the highly unethical commingling of services has been offered.
- Our letter from December 6, 2003, requested to provide information to the homeowners, so the homeowners could conclude to their satisfaction that no association funds were misappropriated. It is absurd that Mr. Tinnelly talks about the satisfaction of the Board. This is not about the satisfaction of the Board, it is about the satisfaction of the homeowners who pay the dues. (Following this thought on a state-wide level: we could greatly simplify our justice system and reduce the prison population if we allowed criminals, such as thieves, to investigate themselves.)

- Many homeowners in Marina Hills have gardeners. At the end of the month the gardener writes a bill, the homeowner pays it, most likely by check. According to the Tinnelly letter, however, the Wilson entered into a complicated contract with Villa Park. The curious homeowners want to see this contract.

The late and very unsatisfactory obscure answer raises the question about improper use of funds.

But it is never too late. The Directors of the Board could redeem themselves by providing to the satisfaction of the curious homeowners any and all information and documentation requested in the letter from December 6, 2003. Anything short of that creates the suspicion that the Directors are hiding something.

The full text of the December 6 letter and the facsimile copy of the Tinnelly response can be found on the web site.©

## February Board Meeting

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Treasurer Ferrante praised Mrs. Wilson for the savings. During the homeowner forum Mr. Hans Strupat pointed out the facts as perceived by SaveMarinaHills and as written out on the web site since December 29, 2003: Mrs. Wilson had used the wrong mailing label which caused the mailing cost to be nearly 50% more than necessary. Therefore, since the inception of the newsletter, at least \$10,000 of association funds have been spend unnecessarily.

A renewed request from a homeowner to install a wireless 802.11(WiFi) hotspot at the clubhouse for the enjoyment of the homeowners was turned down again, just like a few months earlier. Mr. Hans Strupat later pointed out that the directors, some of whom, by their own admission, don't even own a computer, do not represent the diversified demographics of all Marina Hills homeowners.

During the homeowner forum a Vistara homeowner continued her efforts to settle with the board after her family had been sued by the Directors for not maintaining the landscaping OUTSIDE the perimeter wall.

An Amarante homeowner asked the board whether the painting of the fence had begun. When Mrs. Dry confirmed, the homeowner stated her disappointment about the board not listening to the homeowners and pointed out that the original color scheme, in her opinion, worked much better with the existing architecture of the community.

Mrs. Marcia Bloom from the gated Siena sub-association stated that they would charge all homeowners from the Marina Hills association with trespassing if they would attempt to solicit proxies within their gated community, even if it was part of a democratic effort to collect proxies for a vote. Marcia is the wife of George Bloom, who has held the position of treasurer for the Siena sub-association for at least eight years. [It looks like Mr. Bloom is also afraid of term limits.]

Another Siena resident thanked the Board for their relentless service "during these difficult times" and specifically for the rehiring of the security guard Miguel (see related story).

Mr. Vito Ferrante gave a verbal financial report.

At 6:50 P.M. the meeting was adjourned. ©

## Homeowner feedback:

*This was my first Board Meeting... I did not find it geared toward the interest of the homeowner. I would like to see an overhead with the agenda and an overhead for the report from the treasurer...*

*Jane Dry appeared that she only knows one routine to follow during a meeting, and if anything catches her off-guard, she does not know how to handle it. I did not find her a well spoken person or secure in her position, as a President should be... She and Mr. Ferrante appeared to be in the defensive mode during the entire meeting...*

*Mr. Szwajkos did not want to look the homeowners in their eyes when he spoke. He looked down at the papers so no one would feel like they could ask him a question.*

Homeowner 0402211913

# Directors reverse themselves

Board rehires security guard with history of abuse

As reported earlier, during the November 2003 Board Meeting, the board-hired security guard Miguel Perreira stormed across the club house and assaulted the speaking homeowner by shouting at him during the homeowner forum. A police report for disturbing the peace (case number 020404/1055) was filed. The same security guard had also been linked to an obscene phone call made from the clubhouse to a homeowner's residence on Saturday, October 18, 2003.

As a result of this public incident the lawyer for the Directors, Mr. Richard Tinnelly, who personally witnessed the assault, stated in a letter of November 20, 2003:

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**RICHARD A. TINNELLY**

...effective November 18, 2003, and as a result of the security guard's conduct at the November 12, 2003, board meeting, security guard Miguel Perreira has been removed from his position serving the Marina Hills community. His employer, Securitas, has been requested to provide a new officer to replace Mr. Perreira.

As you have requested, Mr. Perreira's employer is Securitas, 2900 Bristol Street, Suite A203, Costa Mesa. As you will hopefully recognize from the Board's action in this matter, they do not take such matter likely and/or tolerate the conduct you have complained of. Indeed, the action taken by the board would have been taken regardless of your written complaints, as not have acted would be a disservice to the members of the Marina Hills community...

Very truly yours, Richard Tinnelly

**So far – so good.** The Board actually listened to the homeowners and acted for the benefit of the community.

Unfortunately this benefit was very short-lived. In the secretive executive session of the January Board Meeting the Directors decided to rehire Miguel Perreira. He re-started in the beginning of February.

The Director's decision was done in secrecy – it was not discussed, or even announced, in the open part of the Board Meeting. It was communicated only in the written board meeting minutes, a month later, after the decision had already been implemented. The Directors' secret decision making, without the input of homeowners, raises a number of questions:

Why was Miguel Perreira, after about 30 homeowners witnessed his abusive behavior, hired back? Is it a demonstration of the Director's power over the homeowners?

Without an explanation from the Directors, can we really entrust our children at the pool to a security guard with a documented history of abusive behavior?

Did a member of the incumbent power structure tell Mr. Perreira to make the abusive phone call and the assault during the board meeting for the purpose of intimidating a vocal homeowner, or did he initiate these attacks on his own?

Did the Employee of the Board initiate the re-hiring so Mr. Perreira can cover for Mrs. Wilson, when she is not in the club house office during regularly scheduled office hours?

Did the Directors actually have a choice but to rehire Mr. Miguel Perreira, since he might have knowledge of additional improper and/or unlawful acts involving the incumbent power structures? ©

## Term Limits

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This verbal answer has since been confirmed in writing with Richard Tinnelly (see web).

What choices do the petitioning homeowners have now?

1) give up and allow the existing triumvirate power structure of long-time appointed/elected Directors and their Employee of the Board and their well paid loyal vendors (like Tinnelly who is paid \$40,000 per year) continue to control our own backyards.

2) use the help of the Superior Court to compel the Directors to follow the CC&Rs and conduct the voting process

3) execute (according to California Civil Corporate Code the petitioning homeowners have the right to do so) the voting process on our own

4) recall the entire Board of Directors

Thinking about George Bernard Shaw's statements, eliminates the first option. The moment the petitioning homeowners use the Superior Court's help to force the existing power structure to obey the CC&Rs, the Directors will use our very own homeowner association funds against the petitioning homeowners, like they did in 1997.

Performing the voting process on our own seems easy at first, but upon closer inspection, as it also requires a second vote from the District Delegates, and it gives the Directors at least five opportunities to derail

the overall voting process with malicious attacks. For example, not calling the required meeting of District Delegates, or calling it at a time that is incompatible with the member vote, or later on, just ignoring the results, as they are presently ignoring the petition.

A recall vote for the entire board, according to the CC&Rs only requires a single member election with a simple majority of at least 770 votes within all of Marina Hills. But, who is to say that the Board would accept the vote. Mr. Tom Szwajkos rejected the recall results in 1997, and instead sued the homeowners who initiated the recall.

None of these options are perfect. All of them require a price, either in freedom, uncertainty, effort, hostility and last, but not least, money.

**Freedom is too high a price to pay!** Therefore, giving up is not an option.

The price for any of the other choices is the price for democracy. And it does require some sacrifices and hard work. But at the end of this journey we again will be in control of our own backyards.

During the month of March, we, the petitioning homeowners and SaveMarinaHills will decide which of the options to pursue to establish term limits.

If you have anything to contribute – advise, legal talent, money – help us to reestablish democratic decision making in Marina Hills. ©

## Call for Action

Help Your Community now by establishing Term Limits

If you have any question or need any additional information to inform yourself about term limits, please call or email us at SaveMarinaHills.  
email: info@SaveMarinaHills.org  
Phone: 949-218-7408  
Talk to your neighbors about the term limits and this newsletter.  
Call Mr. Richard Tinnelly (949-588-0866) and Keystone Pacific (949-838-3238) to express your concerns. ©