

Bob Wilbur

From: "Dustin Frederick" <dustin@local519.org>
Date: Sunday, November 09, 2014 6:56 PM
To: "Bob Wilbur" <bbwilbur@broadstripe.net>; "Carol Del" <caroldchina5@yahoo.com>; "Suzy Palmer" <suzy Palmer1@me.com>
Subject: RE: Pool go bye-bye

all---maybe I'm too optimistic but I don't see the judge ruling that the king motion trumps the Oct 12th motion because the King motion violated the bylaws and AOI which call for maintaining and refurbishing the existing pool.

I think that the argument skinner should make to the judge is that the king violation is a pool removal motion which is a violation of the existing governing documents---just as the vote to destroy the pool is a violation.

I think the judge made it pretty clear that is the members want to change the pool, remove , relocate or whatever---they need to change the bylaws and AOI's first.

Dustin

From: Bob Wilbur [mailto:bbwilbur@broadstripe.net]
Sent: Sunday, November 09, 2014 5:40 PM
To: Carol Del; Suzy Palmer; Dustin Frederick
Subject: Re: Pool go bye-bye

Hi Carol,

Don't know what your "responses" might be or who directed at, but I'm not optimistic responses to anyone are going to do much. Here's my take on why.

It will make no difference to the judge that it is just a motion that calls for planning or that there may be alternative visions to sort out. Why? Because in the TRO, he made it quite clear that **the Oct 2012 was only good until the membership passed a motion that trumped it**. The King motion has done that, and I don't see how Hancock could backtrack from that.

So, unless we can upend the King motion, we are very probably to be stuck with the judge telling the plaintiff and defendant that the membership has decided to put the pool on hold, pending consideration and ultimately resolution of other options.

Under that very likely judicial scenario, the Board cannot send out a ballot on payment options to fix the pool, let alone send out an assessment because the King motion basically tables the pool pending a proposal to replace the pool.

Like I said if the motion isn't upended, I lay good money after bad, it's pool go bye-bye.

PS: In addition to options 1 and 2, I forgot about a third option to kill the motion, but time not on our side: i.e., the County tells ACBC it cannot be done—not likely to get that over the next 5 days.

From: [Carol Del](#)
Sent: Sunday, November 09, 2014 2:46 PM
To: [Bob Wilbur](#) ; [Suzy Palmer](#) ; ['Dustin Frederick'](#)
Subject: Re: Pool go bye-bye

Hi Bob,
I've had the same feeling of dread about the motion as the delay of any action on the pool was clearly their motive.
Alternatively, I'm sure that bringing up the POA's will infuriate them. Wish we had used them at the meeting.

Suzy and I have been working since Thurs. night to prepare responses to issues in the declarations. We are hoping that the intervention will be denied which will make all this work a waste but we want to be ready.

There were many things left out of 'Visions' motion: loss of our non-profit status and therefor taxes to pay; the change in the AOI to change the mission of AC, shoreline management requirements, flood plain issues for new structures, the unlikeliness that the costs to build would willingly be borne by members ...

Given the vagueness of the 'Visions' motion, I would assume that an alternate vision could be included such as covering the pool and adding a second story to the existing structure. Or expanding the shelter (if one could get permits) to include more room with a kitchen and bathroom.

It just a study - there is no demand for an immediate change. Ed and Steve tried to make that clear in the newsletter - inviting other 'visions' on the committee. Ed is still looking for committee members.

Suzy, Dustin, comments?

Carol

On Sunday, November 9, 2014 1:30 PM, Bob Wilbur <bbwilbur@broadstripe.net> wrote:

Hi Carol and Suzy and Dustin,

I will leave it to you to figure out how to handle this. After a good bit of reflection on the King motion, and without hearing from Skinner as yet, I have come to the conclusion that the Board needs to find a way to nullify or reverse the King motion and announce that at the Nov 15 Board meeting. If that does not happen, I believe the judge will deny my declaratory judgment or water it down to being of no practical value. It follows that the only way to salvage might be to continue legal options, but I need to make clear that is very unlikely on my end due to lack of money and time and energy.

So, I see only two realistic options:

(1) For the board to nullify (or whatever?) the motion as not consistent with the AOI.

The King motion necessitates replacing the pool, even though at that time (October 25, 2014), there was a standing TRO ruling against elimination of the pool and, hence, would contravene the court's order and put the board in legal jeopardy. Also, as described, it initiates planning for a conference center to host weddings and meetings that would make money for the club; there was no presentation about what

recreational facilities might be provided (although a bar was mentioned several times), but there was a lot of discourse about what a great venue it would be for weddings and conferences.

As presented and written, it leaves out "athletics," entirely, which significantly alters the purpose of ACBC as stipulated in AOI, Article V, paragraph 1, that is, "To construct, install, maintain, and/or own and operate athletic and recreational facilities of all types for the benefit of the members." The motion as presented and written would require a change in that paragraph to something like, "To construct, install, maintain, and/or own and operate recreational facilities and a conference center for the purpose of making money for ACBC..." The King motion therefore does not comport with the AOI, and to comport would necessitate an approved change in the AOI, requiring a 2/3 majority.

(2) To reverse the motion. Assuming my understanding that there were 37 votes for and 32 against is correct, then have the six POAs whose votes were not included in the tally against the motion demand that the Board include their six votes. Obviously more complex and controversial to be sure. The form of that demand would be something like the following:

Dear BOD: As an ACBC members in good standing, we each provided a POA to another member of ACBC in good standing. In essence that person legally became me, with full authority to vote at the annual ACBC board meeting as though it was me. Our six POAs were represented as follows: Carol Love (by Lisa Love), Pat Bernanki (by ??), Mike Brice (by Darla Allen), Lydia Bartholomew and Gwyn Staton (by Bob Wilbur), and Margaret Stiles (by Mark Harmon).

We understand, however, that the Board instructed that POAs were only to be allowed to vote if the total POA votes would have made a difference in the matter being voted on, and the only reason for that was because the Board hoped to avoid any needless controversy related to POA voting at the meeting. That was wrong-headed and an illegal abrogation of my membership voting rights. In spite of that, the Board then dishonored their own directive by not calling for the POA vote, even though it would have made a difference in the results. Because of this failure or error to tally all our legal votes, we are therefore asking that my vote be counted, and I am informed that the other five POAs are making similar requests.

Each of our designee was informed and entrusted to vote for any measures supportive of the pool and against any measures that would not be in support of the pool. By copy of this email, we are asking each of our designees to verify that my wishes were understood, that they were present during the vote and would have voted against the motion in my name, but were prevented from doing so.

Thank you for complying with this request,

Hope one of these works for the Board because otherwise, I suspect it is all over for the pool. Need done for Saturday's meeting or sooner...Bob