

SUN CITY INDEPENDENT

September 2, 2009

Front Page top story

Residents seek change to prevent board dismissal

RCSC has 60 days to review petition

By Rusty Bradshaw

Independent Newspapers

A group of Sun City residents wants to make a change in the Recreation Centers of Sun City articles of incorporation to prevent the board of directors from removing one of its own without a vote of the corporate membership.

Noel Kasper presented a petition to the RCSC board secretary Aug. 27 during the monthly board meeting to change Article IX to require only a membership vote to remove a board member. Mr. Kasper also presented a request for the RCSC voter list and the language of the proposed petition.

“The removal by the board of a duly elected member earlier this year shows there is a need for change,” he said. “When there is a dispute between the board and members, the members should prevail.”

Warren Hoffman, RCSC board president, said there was no dispute between the board and members over Ann Ullman’s dismissal from the board by a two-thirds vote of the remaining board members.

“If you look at the reasons given in the bylaws, you can understand why the board member was removed,” he said.

However, Mr. Hoffman and other board members refuse to discuss Ms. Ullman’s dismissal.

Tim Gallen, RCSC spokesman, said the board has 60 days to consider the petition request. He said the board could either accept or reject the request.

Mr. Kasper’s petition, if approved by membership, would stipulate only a vote of RCSC membership can remove a member of the board. The proposal does allow the board to initiate a recall of a board member by a two-thirds vote, but that would be subject to a membership vote.

The petition would also align RCSC board recall policies with those in Arizona Revised Statutes, according to resident Anne Randall Stewart, Sun City Formula Registry spokeswoman.

“Regarding our new Article IX conforming with the Planned Communities Act, it is mandatory anyway,” she said. “The act overrides the community documents regarding recall of a board member by the membership.”

However, some residents oppose the change, believing serving board members should retain the authority to remove a

See [Change](#) — Page [17](#)

Change

Continued From Page [1](#)

member without general membership approval.

“Yes, the board should remove members sans membership approval,” stated Katie McCullough in an e-mail. “They know how their colleagues perform on a regular basis.”

Lucky Marr also believes the board should have the authority to remove a member, but not without justification and due process.

“After a public hearing, in which the person charged is given adequate opportunity to respond and defend themselves, and the board has then sufficiently and publicly demonstrated they have a bad apple, then the board should have the authority to remove the offending member,” he stated in an e-mail.

The cause would have to include such infractions as being absent from six straight board meetings, theft or some other illegal or specific actions that might bring about the need for immediate dismissal he added.

“Disagreeing with other board members not being one of them,” he stated.

The lost time and expense to bring about a recall by the membership would be a total waste and most likely bring about the same results if the cause was that paramount, Mr. Marr stated.

Other residents support the change, believing it puts the matter in the hands of the same people who elected the board member.

Resident Beth Malmgren believes the RCSC recall process should be the same as those in state statutes.

“It is important that the membership keep control of the organization and not a few members of the board,” she stated in an e-mail.

Resident Helen Bleecker believes no board member should be removed without just cause. She believes the membership should be made aware of why and then be given the opportunity to vote. Resident Ken Svee believes if the board has the authority to remove a member without public due process, it opens the door for a “buddy buddy” system rather than a democracy.

Resident Steve Zeitler said removal without a membership vote means a board seat could become a revolving door until other board members find someone who agrees with them.

“If a member doesn’t agree with the other board members, they’re out,” he stated in an e-mail. “This is not right, but if it doesn’t change, I’ll understand. After all, this is Sun City.”

Like others who support the petition, resident RoseLee Bernstein believes the matter should only be in the hands of the electorate.

“I do not feel the rec board has the right to remove anyone from office that was voted into office by the membership,” she stated in an e-mail. “We voted you in, we vote you out.”

Resident Kenneth Gegg agrees. He also believes the process of filling vacancies should be changed.

“It seems that anyone who has received votes should also be in line for the next board opening instead of the board picking someone who has the same agenda as them,” he stated in an e-mail.

Ms. Stewart believes RCSC should be required to follow the Planned Communities Act in other ways.

“The Planned Communities Act, Title 33 Chapter 16, creates equity between the individual homeowners and the boards of associations,” she said. “It is to the advantage of the individual homeowner to be under the act — open meetings, open records, etc.”

She said RCSC does fall under the act but recent officials claim the corporation is not because of one word in the act’s language.

“The RCSC is under the statute, except they say they are not because of an ‘and’ instead of an ‘or’ in the definition,” she said. “We want to change that so that they conform. A planned community getting a tax exemption should operate under the regulation.”

She said the difference between the act and the articles is 1,000 verses 4,200 signatures needed on a recall petition and does not require board permission to circulate petitions, as is required by RCSC board policy.

Post your opinions in the Public Issues Forum at www.newszap.com. News Editor Rusty Bradshaw can be reached at 623-445-2725 or rbradshaw@newszap.com.

Proposed Article IX replacement

ARTICLE IX

A. Removal of any director shall be accomplished by a simple majority of the ballots cast at a membership recall election called in either of the following ways:

1. By a vote of at least two-thirds (2/3) of the members of the board of directors.
2. By the members according to Arizona Revised Statute Title 33, Chapter 16.

B. Any voting member of the corporation who is qualified under the bylaws to become a candidate to fill a vacancy on the board of directors must deliver a petition with at least one hundred (100) signatures of voting members to any board officer not being recalled not later than fifteen (15) days preceding the date set for the recall election in order to be included on the membership recall election ballot.

C. Failure of the board to conduct a membership recall election upon the completion of requirements set forth in paragraph A.2 of the article may subject individual board directors to contempt of court proceedings.

Source: Sun City Formula Registry