

## MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Sharon Schwartz at 3:35 p.m. on March 17, 2009, in Room 446-N of the Capitol.

All members were present except

Representative Michael Peterson - Absent

Representative Mike Slattery - Absent

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes

Martha Dorsey, Kansas Legislative Research Department

Jill Shelley, Kansas Legislative Research Department

Carol Bertram, Committee Assistant

Conferees appearing before the Committee:

Senator Julia Lynn, 9<sup>th</sup> District

Representative Terrie Huntington, 25<sup>th</sup> District

Representative Gene Rardin, 16<sup>th</sup> District

Nila Ridings, Homeowner

Cherylaine Sullivan, Homeowner

Julia Ancrum, Homeowner

Luke Bell, Vice President of Governmental Affairs, Kansas Association of Realtors

Jim Parker, Quail Creek Home Owners Association

Robert Hjetland, Prairie Trace Community Association

Others attending:

See attached list.

Chair Schwartz opened the hearing on **HB 2253 - Enacting the homeowner's association act.**

Ken Wilke, Office of Revisor of Statutes, presented an overview of **HB 2253** and stood for questions. He stated this subject has been around for at least two years and it concerns problems and grievance procedures for members of homeowner associations. He went on to review each section and subsection of the bill.

**Proponents:**

Senator Julia Lynn appeared before the Committee in support of **HB 2253** (Attachment 1). She stated there is a lack of transparency and no accountability in how funds are spent, but that **HB 2253** would provide a statutory framework and system of accountability to protect dues-paying homeowners association members and board officers. Questions and answers followed.

Representative Terrie Huntington appeared before the Committee in support of **HB 2253** (Attachment 2). She stated this bill directs homeowner association governing boards to abide by their bylaws, to hold open meetings and elections, and if not, provides a method through the Consumer Protection Division of the Attorney General's office to mediate disputes so that residents may resolve issues without hiring an attorney and resorting to a civil suit. This is a statewide issue, with associations in Johnson County, Sedgwick County and Shawnee County. Questions and answers followed.

Representative Gene Rardin appeared before the Committee in support of **HB 2253** (Attachment 3). He stated this bill takes needed steps to curb the mismanagement, incompetence and worse which has too often been demonstrated by a few, but very significant in impact, homeowner associations.

Nila Ridings, a homeowner in the Quivira Falls Community, appeared before the Committee in support of **HB 2253** (Attachment 4). She stated that at the time she purchased her home, the same board president had been in office for over 20 years. He died in 2008 leaving a massive debt with no money in the account. To date, an audit has not been done since 1999. The current board continues to operate the community in the same secrecy and manner as did the former president. Ms. Ridings went on to show slides from a CD which showed pictures of the condition of her home and other homes in the Quivira Falls Community. Two CD's pertaining to the condition of houses in the Quivira Falls, Overland Park Community, can be located in the

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Legislative Research Department of the Capitol. Questions and answers followed.

Cherylaine Sullivan, a homeowner in the Quivira Falls Community, appeared before the Committee in support of **HB 2253** ([Attachment 5](#)). She stated the Community is worth approximately \$100 million with association dues in excess of \$1 million annually, and yet there hasn't been an audit of these funds since 1999. Issues are unresolved due to a lack of statutes in Kansas to protect homeowners of property in maintenance-provided communities. Questions and answers followed.

Julia Ancrum, a homeowner in the Quivira Falls Community, appeared before the Committee in support of **HB 2253** ([Attachment 6](#)). As a licensed child care provider in Kansas, she noted the need for her to provide a safe environment for the children in her care. She described the problems she had with the Quivira Falls Community Board in replacing a broken fence she had surrounding her home. She urged the Committee to pass **HB 2253** to provide a law to protect homeowner association members from problems like she had encountered.

### **Proponents - Written Only:**

Norma Campaneris, Homeowner, Quivira Falls Community ([Attachment 7](#)).  
Huey P. Strickland, Homeowner, Quivira Falls Community ([Attachment 8](#)).  
Jeff Kittinger, Homeowner, Quivira Falls Community ([Attachment 9](#)).  
Marilyn McClure, Homeowner, Quivira Falls Community ([Attachment 10](#)).  
Linda Smith, Homeowner, Quivira Falls Community ([Attachment 11](#)).  
Carmen Campaneris, Homeowner, Quivira Falls Community ([Attachment 12](#)).  
Danny J. Sybugh, Homeowner, Quivira Falls Community ([Attachment 13](#)).  
Angela Fleming, Homeowner, Quivira Falls Community ([Attachment 14](#)).  
Ron Olberding, Home Owner, Quivira Falls Community ([Attachment 15](#)).  
Sylvia McCombs and Charles C. Maack, Wichita, KS ([Attachment 16](#)).

### **Neutral:**

Luke Bell, Vice President of Governmental Affairs, Kansas Association of Realtors(KAR), stated KAR has no position on the underlying legislation, but it does have concerns with the language found in Section 2(g) ([Attachment 17](#)). He said amending the language to require disclosure only when the prospective property owners make a written request, would add clear guidelines on when the disclosures need to be provided. He requested the Committee adopt an amendment that would add the words "upon written request" to the beginning of Section 2(g). Questions and answers followed.

### **Opponents:**

Jim Parker, Quail Creek Home Owners Association, ([Attachment 18](#)) stated he had three requests for changes with the bill as it is written:

1. Section 1, paragraph 5 should be deleted, along with all references throughout the bill to "or residents". He said most homeowner associations are not, and should not be, required to provide information to renters or lessors.
2. Second sentence in Section 5, paragraph e: this sentence should be amended to show that two-thirds of the mediation cost would be borne by whichever party initiates the request for mediation. The bill as written requires the association to pay two-thirds in all circumstances.
3. Section 6, paragraph b: a better solution would be to require the Secretary of State's Office to notify all homeowners' associations throughout the state within 30 days after publication in the Kansas Register.

Questions and answers followed.

Robert Hjetland, Prairie Trace Community Association, ([Attachment 19](#)) reviewed six concerns he had with the bill as it is presently written. In conclusion, he stated many items in this bill are covered by the homeowners' Covenants and Bylaws while other items are covered in Robert's Rules of Order. He stated this bill will require additional duties of the boards, which serve without compensation.

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Questions followed; Representative Rardin and Representative Huntington stood to answer questions.

There being no further conferrees to appear before the Committee on **HB 2253**, Chair Schwartz closed the hearing on **HB 2253**.

The meeting was adjourned 5:10 p.m.

The next meeting of the Local Government Committee will be Thursday, March 19, 2009.

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Representative Sharon Schwartz, Chair