

Cows trigger ugly homeowners association fight in Simi

By Anna Bakalis

Tuesday, March 23, 2010

Mayor Paul Miller had been reluctant to engage in a bitter neighborhood dispute in his Bridle Path community of Simi Valley.

But that changed last week when he found out his vote wasn't counted in the March 15 election for the homeowners association's board of directors.

"Something is very wrong," Miller said. "I think this election needs to be re-done."

He and his wife were among at least 75 residents who learned their mailed-in ballots were not among the 437 counted, according to a list released by an independent elections inspector for the HOA.

Touted on its Web site as an idyllic equestrian community of about 630 homes in southwest Simi Valley, each on a half-acre or more, residents there have been hammered by HOA political tension that has included negative campaign fliers, door-to-door soliciting from candidates and lawsuits challenging board elections.

The topper was a FedEx delivery — cow patties nestled in happy face boxes with a knife and fork — sent last spring to four of the five Bridle Path HOA board members. Since then, four board members have resigned for various reasons and replacements had to be appointed to the volunteer positions.

At the center of this community rift are Randy and Margaret Miller, who fought to keep eight cows on their secluded ranch-style property just off of Meander Drive. A small group of residents opposed their application for a conditional-use permit, which was approved by the Simi Valley City Council.

The neighborhood — where homes are selling for about \$600,000 to \$900,000 — is so polarized that some residents say they won't go outside if they see neighbors they don't want to encounter.

In August, a petition was circulated to recall the board but it failed. And the board canceled its Jan. 18 meeting, which was supposed to include the HOA election for 2010.

Homeowners associations are largely independent bodies that wield clout by setting rules and governing things such as landscaping, paint colors and parking for a community of residents.

The board election finally took place last week, sweeping in four new members and retaining one incumbent. They are David Miller, Linda Pierce, Bill Apodaca, Stephanie Bennett (the lone holdover) and Digby Sharpe.

Marcy Myers, who served on the board last year but lost in the latest election, said she will be “shocked” if there isn’t a recall. She doesn’t know how ballots could have been lost or misplaced.

Voting by proxy

Some of those who have raised objections to the missing ballots are concerned that three newly elected members who campaigned together — Apodaca, Pierce and David Miller — might have used bullying tactics to acquire their votes through proxy, where residents basically sign over their votes to the candidates.

A resident’s proxy is worth five votes, theoretically one for each board seat. But a candidate can use a proxy to cast five votes for himself under the HOA rules.

The three candidates that now form a majority on the board received 161 proxies, according to the election inspector’s ballot list. And about 80 percent of the votes for Apodaca, Pierce and David Miller were cast by proxy.

It’s uncertain how the supposed missing votes would have affected the outcome. But the sixth place finisher, Daran Paone, could have climbed to fourth if she had garnered another 75 votes.

The reason for the months of aggressive campaigning by Apodaca, Pierce and David Miller remains unclear, said Paone, a past board member.

“Why fight so hard for a volunteer position?” Paone said.

Apodaca, Pierce and David Miller “don’t believe it’s true” that ballots are missing, according to Cynthia Pandolfi, who represents them in an election lawsuit pending against the HOA board.

Apodaca, who was named president in an emergency board meeting last week, said the missing ballots were “all news to me.”

“The Bridle Path Homeowners Association is a private entity,” he said. “Out of respect to the homeowners, I don’t want to talk about the matter publicly.”

Pandolfi acknowledges emotions are running high in the community. She hadn’t heard

about the cow patty deliveries.

“There’s no telling who sent that,” Pandolfi said. “I feel sorry for them if that is true.”

Paone, treasurer of the board at the time, said she felt threatened by the anonymously sent cow patty package. She and the three other board members each received one last spring.

“What did I get myself into by getting on this board?” Paone recalled thinking at the time. “But then I thought: ‘I’m not going to let them get the best of me.’ ”

Paone, who has lived in Bridle Path for 20 years, said she has received hostile letters and e-mails — even since last week’s election.

Dispute becomes public

The Bridle Path dispute became public in 2008 over a request for a conditional use permit to allow up to eight cows for Randy and Margaret Miller, whose daughter and neighbors raise the cattle for 4-H projects.

The City Council this year approved the permit on a 2-1 vote, allowing the Millers to keep the cows. Mayor Miller and Councilwoman Barbra Williamson abstained, citing conflicts.

Apodaca was one of the leading opponents of the permit.

While the cows made news headlines, several residents suggest the neighborhood troubles might be more complicated and longstanding.

Residents question how people who have lawsuits against the HOA can sit on the board of directors.

In January, Apodaca, Pierce, David Miller, James Pantaleo and Esther Mead filed suit against Bridle Path HOA, challenging the cancellation of the Jan. 18 election. A judge ruled the board’s decision was legal and dismissed the case.

The HOA spent more than \$70,000 in legal fees over the past year, involving four lawsuits, with Apodaca named as the plaintiff in two of them.

Election tactics

Apodaca’s name was attached to fliers sent to residents that criticized board members for increasing HOA dues and for failing to inform residents about pending litigation — his lawsuit. The flier noted that the old board had spent more money defending itself than ever before.

Mark Sherin, a Bridle Path resident since 1997, said David Miller knocked on his door

last month to solicit votes for Apodaca's slate of candidates. When Sherin told him he wouldn't vote for them because of the lawsuits against the HOA, Sherin said Miller became upset and threatened him.

Sherin said he reported the incident to the Simi Valley Police Department.

David Miller did not return phone calls for this story.

Pandolfi said the accusation that her clients used strong-arm means to obtain proxies "is preposterous." David Miller received more votes than any other candidate, and wouldn't have garnered the proxies if he wasn't a good person, she said.

In July, Apodaca filed a lawsuit against the HOA, challenging the way a recall election was being handled. Pandolfi said the suit states the HOA's bylaws need to be updated to reflect state law that changed recall standards from a two-thirds majority vote to a simple majority. It is set to go to trial July 6.

Stephen Levine, the HOA's lawyer, said at the March 15 election meeting that any board member involved with a pending lawsuit would have to recuse themselves from discussions related to it.

Sherin questioned how Apodaca could represent homeowners' interests as a board member of the association he is suing.

At last week's emergency board meeting, Apodaca was voted president, Pierce, vice president and secretary, and Miller, treasurer.

The three also stripped the power of the other two board members with a 3-2 vote, relegating Bennett and Sharpe to "members at large" with no authority to sign financial documents.

Bennett, the former board president, thinks the proxy method of voting needs to change.

Barry Ross, an Orange County-based attorney who specializes in real estate law and homeowners' rights, said proxy votes are common in HOAs, but if residents were given false information, the election could be invalidated. He also said a significant amount of ballots lost in the mail would constitute grounds to invalidate the election.

Ross said it's fairly common to have neighbor-versus-neighbor disputes in HOAs.

Margaret Miller knows all about such disputes. She and her husband have fought multiple lawsuits over the years relating to their property.

The equestrian community includes horse trails, seven arenas and a 1,700-acre mountain park reserved for horse and pedestrian activities. If it wasn't for the location

— her property abuts the mountain park — she would have moved a long time ago, she said.

Although the election results stunned her, the 200 people who came to the Monday election seemed fed up with the acrimony, which she thinks is a good sign.

“Bridle Path finally woke up at the end,” Margaret Miller said, “but it might have been a little too late.”



© 2010 Scripps Newspaper Group — Online