

Approved
April 18, 2018
as corrected

PINE MEADOW RANCH OWNERS ASSOCIATION
MONTHLY BOARD MEETING
SHELDON D. RICHINS BUILDING
KIMBALL JUNCTION LIBRARY
MARCH 20, 2018

In Attendance: Tony Tyler – President; Tom LeCheminant - Vice President; Pamela Middleton, Secretary; Jeremy Jespersen (Area 2); Bruce Hutchinson (Area 5); Kirby Wilson (Area 6); Byron Harvison (Area 7). Andrew Pagel (Treasurer) arrived late.

Ex Officio: Jody Robinson, Ranch Manager; Robert Rosing, HOA Attorney

Excused: Jeremy Hoffman (Area 1); Robert Walthall (Area 4); Joe Pagel (Area 3)

Guests: John Lyons, Lot F-52; Bob Strubio, High Country Properties, Lot SS-146-X.

Tony Tyler called the meeting to order at 6:30 p.m.

Approval of Minutes

February 20, 2018

MOTION: Pamela Middleton moved to APPROVE the minutes of February 20, 2018 as written. Kirby Wilson seconded the motion.

VOTE: The motion passed. Andrew Pagel was not present for the vote.

New Construction/Additions

No plans were presented.

Ranch Manager's Report

Jody Robinson stated that he had taken the older dump truck to the dealership in Heber for motor work. He estimated the cost would be a couple thousand dollars. The truck does not start and he thought it might be the high oil pressure pump. The dealership was performing a diagnostic on the truck.

Jody stated that the rest of the equipment was running well. He needed to fix some chains on the grader. He was getting ready for the Spring runoff.

Mr. Tyler asked if Jody had fixed the plow on the Chevy. Jody noted that it was the plow on the Ford. The Chevy is working fine. Mr. Tyler had heard that they may lose use of the water truck this summer. Jody stated that he was considering leaving the fire department, and they can only use the water truck if a firefighter drives it. Mr. Tyler

asked if there was the possibility of an agreement with the fire department to allow Jody to continue to use the water truck. Otherwise, the HOA would have to look at either renting or buying a water truck this summer. Jody thought the HOA would have to purchase a water truck. Mr. Tyler assumed they would be leasing a roller again. Jody replied that he had already made arrangements to lease the roller for the summer. Mr. Tyler understood that the water truck is necessary in order to compact everything on the roads. Jody replied that the water truck is used for compaction and to flush the culverts.

Mr. LeCheminant and Jody had looked at pricing. Mr. LeCheminant stated that the cost to lease a water truck was \$3,300 per month, not including tax. He and Jody had found trucks for sale online. Mr. LeCheminant noted that they could purchase a 2004 2,000-gallon water truck for \$25,099. He thought they could negotiate the price.

Mr. Tyler pointed out that the Board should be prepared to spend at least \$25,000 to purchase a water truck. He noted that funds were available in the Capital Reserve. Mr. Hutchinson asked Jody if they would not have the benefit of the fire station or trucks. Jody replied that he has done 30 years of firefighting and he was ready to give it up. The fire station and fire services would continue. The only issue is that the HOA could no longer use the water truck if Jody was not a firefighter. Jody explained that he had made an agreement with the Fire District that allowed him to use the water truck for the Ranch.

Mr. Tyler stated that another option would be to purchase a trailer with trailer mounted water tanks. Ms. Middleton remarked that there are always equipment *auctions*. It is a matter of finding equipment that meets their needs at a reasonable cost. Mr. Tyler stated that typically the Board approves a budget for a specific piece of equipment, and then allows Jody to use his best efforts and experience to find something that fits within the budget. He trusted Jody's judgment. Mr. Tyler suggested that the Board give Jody a budget of \$25,000 and when he finds a water truck, he could provide either the Executive Committee or the entire Board with all the information before he makes the purchase. The Board concurred.

MOTION: Tony Tyler moved to Approve a budget of up to \$30,000 for a water truck, subject to Jody's recommendation; which the Board would have 24 hours to review. Pamela Middleton seconded the motion.

VOTE: The motion passed unanimously. Andrew Pagel was not present for the vote.

Water Company Report

Mr. LeCheminant had not attended the Water Company Board meeting; however, according to Carol they only reviewed the financials and approved the bills. It was a short meeting.

Mr. Tyler understood that there was a large leak on Tollgate Canyon Road. It took Brody and Trevor a long time to find, but it was repaired. Mr. Tyler stated that the Water Company had frozen pipes in certain residences and those were dealt with as usual. The meter is turned off and the owner is notified.

Andrew Pagel joined the meeting.

On-going business

HOA Member Survey

Ms. Middleton stated that he tried to work on a Google survey but was unsuccessful. She needed help from someone more tech savvy and with a better computer. Mr. Wilson offered to bring up a laptop and help Ms. Middleton. Ms. Middleton was able to meet Mr. Wilson in the Valley. Ms. Middleton stated that she had all the questions and the necessary information. She just needed help with making the Google survey site work. If they cannot get Google survey to work, they would have to use Survey Monkey.

Mr. Hutchinson asked if the survey questions had been finalized. Mr. Tyler replied that the Board finalized the questions at the last meeting. They added one question and clarified some of the others. The Board had agreed on an informal survey via a Google Survey App because it is free. Ms. Middleton would send the final questions to Mr. Hutchinson.

Lot Improvement Plan Agreement Revisions

Mr. Tyler stated that he and Mr. LeCheminant spent time this afternoon working on the revisions. He would email the revisions to the Board for their review and comments. They could either make a motion via email to get the Plan approved and in place before the next construction plan is submitted; or they could wait until the meeting in April to vote on a motion.

New Business

Easement on SS-146-X

Mr. Tyler stated that the HOA was approached by the owner of Lot SS-146-X for an easement on a piece of HOA owned property. It is a landlocked parcel located on Tollgate Canyon road below Moss' cabin. The owner is looking for access through one of the HOA owned lots adjacent to Tollgate Canyon Road. Mr. Tyler handed out exhibits that showed the general location for the driveway, as well as the location for the pump house.

Mr. Tyler stated that there were three fundamental questions. First is whether the Board agreed with the configuration in terms of the amount of land, the location, and how the layout of the driveway design. Second is the actual easement document itself in terms of whether it would be a perpetual easement or a license that has some kind of an annual fee attached, or possibly a requirement to join the HOA. Third is the practical aspect of how much to charge for the easement; and whether or not to attach an ongoing fee for access across the property.

Robert Rosing noted that he and Mr. Tyler discovered that the piece needed for the easement was actually smaller than what they originally thought. Mr. Tyler remarked that the initial assumption was to come across the smaller of the two HOA lots, which would have rendered the lot almost useless. However, it is actually on the adjacent lot, which takes up the same amount of square footage, but because it is on a larger lot, it takes up a smaller percentage of that particular lot.

Mr. Tyler commented on various factors, some of which would be beneficial to the HOA because it would provide pioneered access for the HOA lots. The easement would allow the lot owner to cross the property but not allow them to gate it or use it for their exclusive use. Mr. Tyler assumed the lot owner would pay for the driveway construction and the HOA would get the benefit of using the driveway if they decided to sell that parcel or build on it in the future. Mr. Tyler pointed out that there was also a cash incentive for the HOA. Another factor is that granting an easement aligns with the spirit of what they do as a neighborhood association. If someone needs access to their property, he believes the HOA should work with the property owner to provide that access.

Mr. Hutchinson questioned whether the lot owner would pay the dues without being part of the Association. He noted that it has been voluntary in the past. Mr. Tyler stated that in the past, anytime someone asks for something from the HOA they are required to join the Association and pay an obligated assessment.

Mr. LeCheminant suggested that it might be better to grant the easement up higher and closer to the pond. It would be a better access and require removing less trees. Bob Strubio with High Country Properties, representing the lot owner, stated that his client had a contractor look at the property and will provide an estimate. Mr. LeCheminant thought going up higher would be easier and possibly less expensive. However, he needed to verify that the location he was thinking about was actually HOA property. Mr. Strubio stated that it was up to the Board on whether or not to allow it that far up. From the standpoint of his client, they would like to do whatever makes the most sense economically, without infringing on HOA property. Mr. LeCheminant explained why he thought further up would be better.

Mr. Strubio stated that one of the main considerations is the ability to have a 40' radius for a trailer rig. He emphasized that the property owner was open to whatever makes the most sense. Mr. Tyler pointed out that an issue with going further up is that the road curves in, making it difficult to come back down. Mr. Tyler showed the lot in question and noted that the original proposal was to come across the small piece, but the driveway would render the HOA parcel unusable. The small piece is .36 acre. Mr. Hutchinson stated that for a parcel that small, the owner could purchase the entire lot and not need an easement. Mr. Tyler replied that it was an option that was initially discussed. The issue is a discrepancy in value. It is a lot of record and because the owner only needs it for an easement access, he would not need the development right. The cost of the easement would be approximately \$10,000 versus purchasing a lot worth \$50,000. Mr. Hutchinson pointed out that he could sell the development right and recoup half his cost.

The Board discussed various options and locations for the easement. Mr. Tyler asked if everyone was in favor of providing an easement or a license. The majority of the Board answered yes. He asked whether it should be a perpetual easement or a license with an annual fee. It was suggested that if joining the HOA is a condition predicated this agreement, a perpetual easement made sense. Mr. Rosing stated that he initially advocated for a license; but if the owner joins the Association it can be liened. He preferred licenses because of the ability to take it back if something goes wrong.

Mr. Hutchinson understood that the HOA is responsible for maintaining a public easement and the owner is responsible for maintaining a private easement. Mr. Tyler stated that the Board could define maintenance responsibility in writing the terms of the agreement. He thought it was clear in this case that the owner would maintain the easement because it would be for his benefit. Mr. Tyler agreed that a perpetual agreement was more appropriate if joining the HOA is a condition of the agreement.

Mr. Strubio asked about connecting to the Water System. Mr. Tyler explained that water is a separate issue and the lot owner would have to work with the Water Company. Whether or not there is an opportunity to tie into the water system would depend on the location of the water lines and the cost of extending service. He clarified that it is possible to join the HOA and not be a shareholder of the Water Company. However, you must join the HOA before you can become a member of the Water Company.

Mr. Tyler asked Mr. Rosing for the typical cost of an easement. Mr. Rosing stated that in his experience it depends on the property and the terms of the agreement. He was unsure how to value an easement wanted the opportunity to ask other lawyers in his firm. Mr. Tyler thought it would depend on the flexibility and the perceived value of having a driveway versus the actual cash value of the easement itself. He believed there was significant value in having the property owner join the HOA because it would be another property contributing to maintaining the road system in the area.

Mr. Tyler summarized that the Board was comfortable with a permanent easement, but they still needed to determine the cost. He asked Mr. Rosing to talk with others in his firm on how to value an easement. Mr. Tyler would also contact people he knows who have done easements to see if they have suggestions. Mr. Tyler asked Mr. Strubio what valuation his client was given. Mr. Strubio recalled that it started at \$6,000. Mr. Tyler pointed out that they basically had a \$6,000 offer on the table for the small piece of property. They would want to make sure that the HOA has an approval right over the final location of the driveway before it is submitted. If they can agree to the rest of the terms, he was confident they could come up with a design favorable to everyone.

Mr. Tyler informed Mr. Strubio that the Board still needed to work on the valuation; but they were interested in working out an easement agreement with the property owner and would do everything possible to make sure it is fair and equitable for everyone. It would be a permanent easement. He emphasized that one of the conditions would be for the lot owner to join the HOA. The Board would come to an agreement on the cost and draft a document for Mr. Strubio and his client to review.

Miscellaneous

Mr. LeCheminant reported that Marty Selos was selling a large piece of his property where people at Oil Well park. He was told that in the past there was an agreement between the HOA and Marty, whereby Marty would allow people to park on his property and in exchange, he did not have to pay for plowing. Mr. Hutchinson stated that he had never heard of that agreement. Mr. LeCheminant stated that Marty told the realtor that she needed to find a copy of the agreement. Mr. Tyler did not believe the agreement

existed. Mr. LeCheminant noted that Carol found a document on the well house and another document regarding taxes, but there was nothing else.

Monthly Budget Review

Andrew Pagel reviewed the unpaid bills detail. Jody stated that the Capital One bill was a tow truck charge of \$400 and plow mounts for \$600.

Mr. Pagel noted that the bill from Wrona Dubois was higher than normal for Mr. Rosing's time to attend Board meetings. Mr. Rosing reviewed the bill and agreed that there was a \$300 error. The total should be \$300 less than what was billed. Mr. *Pagel* stated that he would approve the bill this evening, and Carol would be made aware through the Minutes. The new total would be \$685. Mr. Rosing would send a corrected invoice to Carol. Mr. Rosing pointed out that he had billed the closed meeting last month separately because those charges were not part of the negotiated monthly rate. Mr. Pagel clarified that Mr. Rosing's rate had increased \$25 per hour over last year's rate.

MOTION: Andrew Pagel moved to Approve the unpaid bills in the amount of \$5,685.18 with the corrected invoice Wrona Dubois would send to Carol. Tony Tyler seconded the motion.

VOTE: The motion passed unanimously.

The Board reviewed the Profit and Loss/Budget versus Actual. Mr. Tyler pointed out that they had collected 77% of the 2018 assessment to date. He thought that was good considering that it was only March.

Owner/Visitor Open Forum

John Lyons, Lot F-52, stated that he is a new owner on the Ranch and he came to the Board meeting to get an idea of how it all works.

Robert Rosing commented on Lot SS-BDY-15-1, Mr. Kendall and Mr. Formanek's lots. He noted that Mr. Formanek has a house on the ridge. According to the surveyor, the legal description says it goes a certain distance to the boundary line of Summit and Morgan Counties. Mr. Rosing stated that in reading the legal description, the call to the County line controls over the length. The call is the determinative piece. The problem is that nobody knows where the Morgan County/Summit County line is, including Summit County. Mr. Rosing tried to contact a land use attorney in Summit County, but he was

out sick for a while. The attorney is back and Mr. Rosing would follow up with him. Mr. Rosing noted that the survey had said that the line could be along the top of the ridge. If it is over the ridge, Mr. Formanek's house is probably on his own lot. If it is along the ridge the house is most likely not on his lot and possibly not even close. Mr. Rosing stated that the land in unincorporated Morgan County is zoned for 100 acre lots. If that is the case, Mr. Formanek is out of compliance on everything.

Mr. Rosing asked if Mr. Tyler had obtained additional information on the Kendall piece. Mr. Tyler reported that he had spoken with Summit County. Mr. Rosing recalled that they had previously talked about cutting the lot in half and allowing Mr. Kendall to merge it with his existing lot. They would move that development right and place it on the other piece, creating a very valuable lot for the Association to sell. Mr. Tyler stated that when he spoke with the Summit County Planning Department, he was told that theoretically splitting the lot would be feasible because they would like to help the HOA clean up the issue within the Ranch. However, the HOA needed to provide all the documentation in order for the County to make an official recommendation.

Mr. Rosing thought it was worth pursuing because the HOA would get some money from selling the piece to Kendall, and they would end up a buildable lot with a fantastic view that would be worth more than it is now. Mr. Tyler understood that Mr. Kendall was waiting for the HOA to come back with a decision. Mr. Tyler remarked that either the HOA or Mr. Kendall needed to spend money to see if it was even possible. He thought it was Mr. Kendall's issue and he should spend the money. However, there is also value to the HOA to clean up the issue. Mr. Tyler suggested that if the HOA spends money to look at the options, they could add that amount to the sale price of the property. Mr. Kendall could either pay the price or move his house. Mr. Tyler suggested that they contact the surveyor that Alan Powell had used initially, and ask that surveyor to prepare a cost proposal for doing the work to split the lot. He has already surveyed the lot and Mr. Tyler thought he could just redraw the lines and create a new legal description. Mr. Rosing was unsure if the Kendall lot had been surveyed separate from the plat; or whether it was just the Formanek lot that was surveyed. Mr. Tyler asked Mr. Rosing to contact the surveyor to find out. If it has not been surveyed, he should ask him for a cost proposal to survey the property and provide the documentation necessary to split the lot.

Mr. LeCheminant asked about the overlay they were going to do on the original CC&R platting. Mr. Rosing stated that it had been done. He had sent it out but he would send it again. He found it interesting to look at because there are large unplatted pieces of land within the bounds of the CC&Rs; as well as large pieces that are platted but outside of the CC&Rs.

Mr. Wilson thanked Mr. Rosing for providing the Board with an overall timeline for rewriting the CC&Rs. He noted that the first deliverable was a questionnaire for the Board with a deadline of March 30th. Mr. Wilson asked if that was still a target date. Mr. Rosing answered yes.

Mr. Tyler announced that he and his wife were in the process of buying a house and moving off the Ranch. They will maintain one of their lots, but they are selling their house. His term as Board President ends in December. He anticipates serving the remainder of his term, but he will probably not run for another term.

The meeting of the Pine Meadow Owners Association Board adjourned at 7:33 p.m.
