

Approved  
January 16, 2018  
as written

PINE MEADOW RANCH OWNERS ASSOCIATION  
MONTHLY BOARD MEETING  
RANCH MANAGER'S OFFICE  
PINE MEADOW RANCH  
OCTOBER 17, 2017

In Attendance: Tony Tyler - President; Dan Heath - Vice President; Pamela Middleton, Secretary; Andrew Pagel, Treasurer; Jonathan Hoffman (Area 1); Joe Pagel (Area 3); Bruce Hutchinson (Area 5); Kirby Wilson (Area 6); Tom LeCheminant (Area 7)

Ex Officio: Jody Robinson, Ranch Manager; Robert Rosing, Legal Counsel

Excused: Jeremy Jespersen (Area 2); Robert Walthall (Area 4)

Guests: Noah Levine, SS-143-5; Amy Wright, FM-C-57; Jane and Charlie Goldstein, FM-C-62; Peter Tilton, FM-83C; Ethan Lamiman, FM-D-158A; David Judd, FM-C-65; John Plocher, Arapahoe E-30; Robert Kendall, Crow Loop Lot PI-18; Will Sladek, FM-C-70; Garrett Hough, FM-D-161.

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

### **Approval of Minutes**

#### July 18, 2017

MOTION: Tom LeCheminant moved to APPROVE the minutes of July 18, 2017 as written. Dan Heath seconded the motion.

VOTE: The motion passed. Kirby Wilson, Bruce Hutchinson and Joe Pagel abstained since they were absent on July 18, 2017.

#### September 19, 2017

MOTION: Dan Heath moved to APPROVE the Minutes of September 19, 2017 as written. Pamela Middleton seconded the motion.

VOTE: The motion passed. Tony Tyler, Joe Pagel and Bruce Hutchinson abstained from the vote since they were absent on September 19<sup>th</sup>.

### **New Construction/Additions**

#### PI-67

Mr. LeCheminant reviewed the plans for a garage on Lot PI-67. The owner had submitted the required documents, except for the survey. Mr. LeCheminant had advised the owner to submit all the paperwork so when he received the survey he could move forward. Mr. LeCheminant had a site plan from Summit County showing where

the garage would be located. A formal site plan should be attached to the survey.

Mr. LeCheminant noted that the colors match the existing house. It is a modified A-style garage on the right side of the house.

The Architectural Committee had reviewed the plans and recommended approval.

MOTION: Tony Tyler moved to APPROVE the plans for a garage on Lot PI-67, subject to an acceptable site plan and survey, and payment of the construction fees. Dan Heath seconded the motion.

VOTE: The motion passed unanimously.

#### Lot FM-C-41

The Board reviewed the plans for a fence on Lot FM-C-41. Mr. LeCheminant stated that the Architectural Committee had reviewed the plans. It is a 4'0" high three-rail natural wood fence. Mr. Tyler understood from the attached site plan that the fence was decorative and did not enclose anything in particular. Mr. LeCheminant asked if the 4' height was acceptable. Mr. Tyler stated that the Guidelines do not give clear direction in terms of what is or is not allowed. The Board has approved a 4' high fence in the past. Mr. Heath remarked that 4-feet was a suggested fence height years ago. Mr. Tyler did not believe the Board had ever approved a fence higher than 4'.

MOTION: Dan Heath moved to APPROVE the fence on Lot FM-C-41 as submitted. Tom LeCheminant seconded the motion.

VOTE: The motion passed. Bruce Hutchinson abstained from the vote.

#### Lot G-11

Mr. LeCheminant noted that the Board previously approved the plans for a tractor shed on Lot G-11; however, the owner changed her mind and intends to build a lean-to shed. He asked if the plans needed to be re-approved. Mr. Tyler noted that a 6' x 16' does not have an associated construction fee, but the shed needed to be approved. Mr. LeCheminant recalled that the tractor portion of the shed was removed from the original plans. Mr. Tyler believed the Board could approve the plans via email once the revised plan is submitted.

### Lot E-30

John Plocher, Lot E-30, presented building plans. The upper siding would be wood with rock on the lower part. The roof would be aluminum in an earth tone color. The roof lines are all pitched. Mr. LeCheminant asked whether it would access off the main road or the side road to the garage. The owner replied that there was already a grooved-out drive and they would follow that path.

Mr. Tyler had not seen the application and he thought the siding materials were unclear. He requested that they submit a color sample of the roof if it was something out of the ordinary or different from the earth tones they cited. Otherwise, the material and color could be identified on the application as long as it meets the Board's interpretation of the Architectural Guidelines. The owner stated that the roof color would either be green or brown. Mr. Tyler wanted to see the site plan, but he thought everything else looked fine.

Mr. Hutchinson noted that the Board could not approve the plans until they receive the missing documents and requested information. The Board needed to see the site plan and the location of the septic systems. He asked if this was intended to be used as a rental. The owner replied that they intended to live there and it would not be used as a rental. Mr. LeCheminant noted that he had not received the application. If it was sent to his email he had not seen it.

Mr. Tyler suggested that the Board could approve the plans via email once the documents are received and circulated to the Board members. The owner did not plan to build until May.

### **Ranch Manager's Report**

Jody Robinson reported that he would need a cutting edge for the grader. The Kubota needed an oil change. He also needed chains for the Chevy and for the Ford before winter.

Jody stated that he would be building a new rack for the sander to get it off the truck. Mr. Tyler thought that project could wait until May. Jody needed to burn the brush pile. He recommended that people remove their trailers in that area before the burn. He planned to do it after Thanksgiving. He was trying to spread the word about moving the trailers to avoid the possibility of a trailer catching fire.

Mr. Tyler remarked that both the Ford and the Chevy had plows and sanders. They now have the use of two pieces of equipment to clear the road, in addition to the Kubota tractor and the grader. Mr. Tyler noted that the cutting edge for the grader was for the

center turntable; not the front. Mr. Tyler asked about the ATV. Jody stated that he had put away the ATV for the winter. The Ranger may need a battery at some point; otherwise it was fine.

Jody reported that he had been working on the roads. The rental lease was up on the roller and he had sent it back. He has done the gravel on Forest Meadows and on the hill on Shady Lane. Pine Loop was done. He has been working on the bar ditches down the Canyon and down Pine Meadow Drive to keep the water off the road. The French drain was done at the end of Arapaho. Jody stated that he has been grading roads and getting everything ready for winter.

Mr. Tyler asked if Jody had already ordered sand this year. Jody replied that the sand shed was full; however, he did not believe it was enough sand for the entire winter. Jody explained that normally they have to order more sand after the first of the year, typically in February, and the delivery truck needs chains to deliver the sand. Jody anticipated ordering another 10 to 15 loads of sand in February.

Outside of the regular maintenance, Jody could not anticipate needing anything else at this point.

### **Water Company Report**

Tom LeCheminant had attended the Water Company Board meeting. He reported that the water company was discussing the possibility of changing the fee structure; and whether commercial versus residential would be legitimately feasible. For example, if someone had a business license to do business on the Ranch, they would pay a commercial rate.

Mr. Rosing thought it would be legal to have separate rates for a commercial use versus a residential use. Mr. LeCheminant noted that under that type of fee structure, people who rent their cabins would be subject to the commercial rate. Mr. Tyler was uncertain about the legality of applying the rate to rental properties. Mr. Rosing agreed that a different assessment could not be charged to a residential property that is used for rentals. He pointed out that the law is different because Pine Meadow Water is not a Special District. Mr. Tyler asked if it was not possible from the HOA standpoint, or for the Water Company. Mr. Rosing replied that it was from the HOA standpoint. A Water Company is different and they may be able to do it. Mr. Rosing stated that non-discrimination language in the Statute states that you cannot discriminate against non-owner occupied rentals. Prior recommendations to discourage renters are no longer valid.

Mr. LeCheminant reported that three people want to put in swimming pools; however, they cannot be filled from the Water Company system. The Water Board discussed how to address swimming pools and how the pools would be filled. Mr. Tyler noted that it was not unusual for an owner to bring in water to fill a swimming pool. Mr. Hutchinson wanted to know what would prevent an owner from filling their pool from the water system without permission. Mr. Tyler pointed out that if the water is left on and the meter runs for 24 hours the Water Company is alerted as an assumed leak. The Water Company visits the lot and shut off the meter until the leak is found. If someone tried to fill their pool with a hose and left it on for 24 hours, the Water Company would be alerted and they would shut down the meter.

The owner of Lot E-30 stated that the general contractor he was working with wanted to know where the Board recommended putting the dirt from the excavation. Mr. Tyler replied that the HOA does not address dirt. It is up to the individual lot owners to find a place to store it for another use, or to haul it off. He pointed out that on Facebook people are always looking for dirt. He suggested that Mr. Plocher look into finding someone on the Mountain who might be interested in taking the dirt. Mr. LeCheminant noted that they would need dirt for the future park. Mr. Tyler did not want to store the dirt until they were ready for a park.

### **On-going business**

#### Ranch Manager Assistant

Mr. Tyler reported that Randy Larson was hired as a temporary hourly worker until the 45-day vetting period is completed. The temporary position will convert to a full-time position at some point in the near future. Mr. LeCheminant noted that Mr. Larson was working with Jody as temporary help two weeks prior to the Board making the decision to hire him at the last meeting. Carol had informed Mr. LeCheminant that Randy's background check and drug test were clean and there were no issues or problems.

#### Mailboxes

Mr. Tyler had kept this item on the agenda because there were still outstanding issues. Mr. Heath thought they were close to filling the first mailbox pod. He noted that a lot of people thought the HOA would provide the mailboxes at no charge. The Post Office charges Park City \$92 and Coalville charges \$75. Mr. Heath understood that a lot of people were not picking up their mail at the Post Office and those names were put aside. He had obtained the list and Carol was looking into it. Mr. LeCheminant was also double-checking the list. Mr. Tyler pointed out that there were still mailboxes available and the process was still the same. Mr. Heath explained the process. A \$50

key deposit covers having the Post Office drill it out if someone loses their key. He clarified that it is only a deposit and the HOA does not make money on it. Mr. Heath pointed out that the Board never voted on charging a fee for the mailboxes. He suggested that they discuss the issue before the Annual Meeting.

Mr. Tyler noted that a Fee Schedule needs to be approved with the Budget at the Annual Meeting every year. He asked Andrew Pagel to add the \$50 deposit for the mailboxes to the fee schedule.

Mr. LeCheminant stated that since they have not yet filled up one mailbox, he thought they should open it up to anyone within the gate. He suggested that if they charge \$75 per box, the mailboxes would be paid for within two years. Mr. Tyler pointed out that the Board was not charging a fee; it was only a key deposit. Mr. LeCheminant noted that HOA owners were not anxious to get a key, and he thought they could make back the money by opening it up to others. Mr. Tyler was not opposed to the idea, but because the HOA paid for the mailboxes, he wanted to make sure that the HOA membership had the first option. Mr. Tyler did not believe they should be giving away the boxes for free. He suggested a \$75/year fee to give some benefit to the HOA membership. Mr. LeCheminant remarked that they could set aside 16 boxes as a courtesy.

Mr. Tyler stated that as part of the Budget Meeting discussion, they could discuss a fee to charge people who are not within the Ranch boundary; and recommend it to the membership at the Annual Meeting. Mr. Rosing suggested that they make it revocable for those outside of the Ranch so if they need those boxes in the future for HOA members, they can take them back. Mr. Tyler agreed. They would need to create a simple agreement to that affect.

#### Cabins built on HOA property

Mr. Tyler noted that Robert Kendall, Crow Loop, Lot A18, was present. Mr. Rosing had received an email from Mr. Formanek regarding the second lot.

Mr. Tyler asked for the next action on this particular item. Mr. Rosing stated that the HOA figured out as best as possible what was occurring legally in terms of the real estate. He had sent letters to both cabin owners. In Mr. Kendall's case, his cabin lot of land is owned by the Association. He noted that Mr. Kendall owns Lot PI-18, but his house was built on a different parcel significantly away from Lot PI-18. The HOA owns that parcel and has been paying the taxes; however, they would like to sell it to Mr. Kendall so he can own the property where his house sits. Mr. Rosing suggested that if Mr. Kendall wanted to purchase the property, it would be easiest to merge that parcel into the lots he owns. In theory he believed that Mr. Kendall could get a permit for the

house in its current location, and have an unbuilt adjacent lot. However, he recognized that it would be subject to Summit County approval.

Joe Pagel asked whether Mr. Kendall could split up the parcel rather than have to purchase the entire plot. Mr. Rosing stated that from the HOA perspective, the Association does not want to pay taxes on a lot that someone else is living on. For that reason, they offered to sell the entire parcel to Mr. Kendall for a stipulated price that was based on an appraisal from several years ago.

Mr. Tyler stated that the property owned by the HOA was more than not just the piece where Mr. Kendall's home is located. There is another piece that is completely independent and is landlocked. Mr. Tyler noted that the HOA would not be able to sell Mr. Kendall the lot as it sits today. It would have to be surveyed and the HOA would have to split off the pieces it needs to retain ownership on, because a portion is part of the emergency access road. Mr. Tyler believed the easiest and simplest way would be to have the lot re-surveyed, go through the subdivision process with Summit County, and have Mr. Kendall purchase the lot from the HOA as part of that process. He remarked that since Mr. Kendall has another lot, another option would be to trade the existing lot for the lot his cabin sits on now. That process would require the same survey and legal fees associated with splitting off that portion of the lot. Mr. Tyler pointed out that the second option would not be an add or subtract for Mr. Kendall from a cost standpoint; other than the fees associated with the lot subdivision.

Mr. Heath noted that there were two different lots and one building permit. He did not believe the HOA had use for another lot without a building permit, and Mr. Kendall had to use that building permit wherever his house sits. Mr. Tyler explained that if there is a lot of record, which is any existing lot that is separated, it cannot be further subdivided to create more building permits. However, if the lot exists today it has a building permit. Whether or not the building permit has been utilized was another question. Mr. Heath assumed that Mr. Kendall would have used the building permit from Lot 18. Mr. Tyler believed that was debatable. Mr. Rosing stated that Summit County might think Mr. Kendall used it, but he thought the County could be convinced otherwise because the house was not built on Lot 18. Mr. Tyler agreed that Mr. Kendall could use the building permit from the lot the house was built on, and that would leave the building permit for Lot 18 clear.

Mr. Kendall stated that every couple of years someone from Pine Meadow Ranch calls him to talk about this. He wanted everyone to know how much he appreciates the Board and the work they do to try and solve the problems on the Ranch. He has had his cabin 43 years. At the time he and his wife could not afford to purchase property. However, he built a cabin cruiser from scratch, and he traded the boat to Brent Jensen

for Lot 18. He went through the process with Summit County to build a cabin on the lot. The County issued a permit and he built his cabin out of used lumber. Mr. Kendall stated that he pays the taxes every year and he assumed he was paying the taxes for the lot where he built his cabin. He clarified that he built his cabin on the property that he thought was the best location. When he was approached by someone from the HOA asking if he wanted to purchase the property, he told them he already owned it. That was when he found out that there was no record of his ownership and Brent Jensen had not signed anything to reflect the trade. Mr. Kendall started thinking about eminent domain. Every few years someone else would call him to ask if he wanted to purchase the land. Last Spring he was told to expect a letter from the HOA attorney. When he received the letter and talked to his own attorney and found out that he did not have a case. Mr. Kendall stated that he was interested in purchasing the land. He is 82 years old and a retired police officer on Social Security. The letter from the attorney stated that the lot was worth \$28,000. Mr. Kendall asked the Board if that could be negotiated to a price he could afford, and if he could make monthly payments until he sells a piece of property he owns in Roosevelt. Once the Roosevelt property sells he would pay it off. Mr. Kendall asked the Board to let him know what they decide. He hoped they could make arrangements and work it out so he did not have to pay the cash up front.

Mr. Tyler stated that the Board was looking to resolve the issue permanently. He believed the Board would be willing to work with Mr. Kendall because it is an unusual situation. He explained that the Board was not trying to profit off of this situation, but they have a fiduciary responsibility to the HOA membership to ensure that if they dispose of HOA property it has a market value attached to it. Mr. Tyler suggested that at the next meeting the Board discuss how to structure a deal and work with Mr. Kendall on putting together the purchase of the land and the process. He informed Mr. Kendall that subdividing the land would be a three to four-month process. The property would have to be resurveyed to pull off the piece that the HOA needs to retain, and that could delay the process further if the survey is not done before it snows. Mr. Tyler remarked that the Board wants to be fair to Mr. Kendall and they want to make it right.

Mr. Tyler asked Mr. Kendall to provide his contact information and the Board would follow up with him after they discuss the details.

Mr. Rosing noted that Mr. Formanek was the another owner who had a cabin on HOA property, but he was not present this evening. However, Mr. Formanek had sent Mr. Rosing an email and Mr. Rosing reached out and asked him to call. He had not yet heard from Mr. Formanek. Mr. Rosing offered to send a copy of the email to all of the Board members, and asked for an updated list of their email addresses.

Mr. Tyler asked if Mr. Formanek had a similar situation. Mr. Rosing explained that it



was different because the piece of HOA land that Mr. Formanek built on is in Morgan County. He understood that Morgan County also has an issue because there is not supposed to be a house there. Mr. Rosing had a Google map and in his opinion he did not believe the house was even close to being on Mr. Formanek's lot. Mr. Rosing noted that there was PI-23A and P23. It appears that they built two lots on PI-23, which he then split into PI-23 and PI-23A; except it is not PI-23 and PI-23A. It is his PI-23A and another piece of land in Morgan County that the HOA owns. Mr. Rosing questioned whether or not Mr. Formanek would have a trade option. Mr. Tyler was not opposed to trading the lot if cash was an issue in terms of purchasing. He just wanted to resolve the issue. Mr. Rosing stated that because it is an usual triangle piece, the appraisal came in lower.

Mr. Rosing reiterated that he would forward the email to the Board. He noted that Mr. Formanek had not provided a phone number in his email, and Mr. Rosing had to wait until he called him back.

### Area 3 Representative

It was noted that the Board voted to appoint Joe Pagel as the Area 3 Representative at the closed meeting. There was a question as to whether the Board needed to vote again in the public Board meeting so it would be in the Minutes.

MOTION: Tony Tyler moved to Appoint Joe Pagel as the Area 3 representative for the remainder of this year until the position is voted on at the Annual Meeting, at which time Mr. Pagel could run as a candidate for a full term as the Area 3 Representative. Tom LeCheminant seconded the motion.

Mr. Heath stated that he received a letter from Carol indicating that Andrew and Joe Pagel had not paid their construction impact fees. If that was correct, he did not believe they could be on the Board. Mr. Pagel stated that the construction fees were coming from the construction loan and the draws had already been submitted. The agreement was to pay the construction fees upon beginning construction of the lots. That was part of the approval on June 20<sup>th</sup>.

Mr. Heath clarified that his concern was having Andrew Pagel and Joe Pagel vote on items that could later be negated if they were not eligible to vote.

Mr. Tyler suggested that the Board vote on the motion to appoint Joe Pagel. If the construction fees are not paid and their vote was not legitimate, that was actually a bigger issue.

Mr. Rosing stated that the Board could make the appointments conditional on having paid the construction fee. He pointed out that Mr. Pagel would not be qualified to run for the position at the Annual Meeting if the construction fee was not paid.

AMENDED MOTION: Tony Tyler amended his motion to make the appointment of Joe Pagel conditional upon receipt of the construction fee that is due. Tom LeCheminant accepted the amendment to the motion.

VOTE: The motion passed. Andrew Pagel abstained from the vote because Joe was his brother.

#### HOA Member Survey

Mr. Tyler noted that Pamela Middleton had suggested the survey and he thought it was a great idea. The intent is to obtain feedback from the people they represent. Mr. Tyler explained that the concept is to circulate a list of questions they would like to ask the membership and use the feedback to plan and direct what they do as a Board. For example, one question could be whether the HOA should be involved in any capital improvements that are common area related, such as Bobcat Springs, a Park, a trails system, or any other amenities for the HOA membership. Another question could be whether or not they are pleased with what the Board is doing for the Ranch. Another survey question could address snow plowing, and to what extent the members want the HOA to plow snow. Mr. Tyler thought it would be helpful to get opinions from the HOA members to help shape the Board's decisions and actions.

Ms. Middleton thought another question could ask what the members value about having property on the Ranch. Mr. Heath suggested that they base this survey as close as possible to the last survey so they could judge where things have changed. They could add additional questions as well.

Mr. Hutchinson suggested that the Board form a subcommittee to review the survey and bring it to the next meeting. He thought it would be good to mail the survey with the notice for the Annual Meeting. Ms. Middleton stated that the Annual Meeting notice had already been mailed. Mr. Tyler thought they could combine it with the voter cards that go out after the Annual Meeting.

Bruce Hutchinson, Pamela Middleton, and Dan Heath volunteered to form the subcommittee to work on the survey.

Mr. Rosing advised the Board to vote on formally creating a subcommittee. If it was just a matter of three people working on the survey without actually being a subcommittee, it

would not require a vote. Mr. Tyler thought the three who volunteered could work together to create the survey and bring it back to the Board. He did not believe it was necessary to have a formal subcommittee. Mr. Heath preferred to circulate the draft survey to the Board through email prior to the next meeting.

Tom Brace, FM-B-53, asked if it was possible to do an online survey as opposed to a mailing. Mr. Hutchinson pointed out that the owners on the Forest Meadow side are always very responsive; however, the majority of the Ranch are typically non-responsive except by mail. Mr. Rosing remarked that because they do not have emails for all the members, it would be better to do a physical mailing. Mr. Tyler suggested that they could make it available online and do a physical mailing. Mr. Heath stated that the survey could include a box for the property owner to check indicating that in the future they would like to be informed by email. He would like all communication to be done through email, but they do not have email addresses all the membership. Ms. Middleton stated that she and Carol were working on compiling a list of email addresses. They updated the website so they could obtain actual information from actual owners signing up for the mailing list on the website.

### GIS Mapping

Mr. Tyler noted that Mr. Rosing previously raised the issue of having a GIS map done to aid with the CC&R rewrite. It would require initial background survey work to do a GIS map of the actual HOA boundaries, which will help the next step in the process of discussing how, when, or if they amend, update or recreate the governing documents. Mr. Tyler believed the initial background work was relatively inexpensive. He recalled that it was approximately \$600. Mr. Rosing thought Matt Lapis, the person he had recommended, could do it for \$500, but he suggested that the Board approve a maximum of \$800. He explained that the survey work takes the legal descriptions in all the governing documents and maps them out over an actual map or a Google map. He assumed he would lay the plats over that as well.

Tom Brace recalled that the members had asked for a quote at the last meeting. Mr. Rosing replied that this gentleman bills by the hour at \$100/hour. He thought it would take approximately 5 hours of time, but he could not guarantee the exact amount of time it would take to complete the work. Mr. Tyler had received an email from the recommended person estimating that it would take five hours at \$100/hour, and he recommended a cushion up to a maximum of \$800 in case it turned out to be more complex and required more time.

Mr. Brace asked if they were able to obtain another bid from someone who did similar work. It was another suggestion that was made at the last meeting. Mr. Rosing stated

that he had researched other people, but everyone he found were out-of-state. He was not familiar with any of the names and they appeared to be more expensive. Mr. Tyler noted that the survey would identify the true Ranch boundaries and which properties are within the boundary based on the legal descriptions. He pointed out that there have been enough changes over the years that it would be worth identifying the boundaries with the technology that is available today.

The suggestion was made for the Board to request a list of deliverables to know what they were paying for and that could be signed as an agreement of work to be done and the maximum payment. Mr. Tyler remarked that the Board already had the costs, but he needed to read the email to know if it included the deliverables. Mr. Rosing stated that the deliverable is the GIS map. Mr. Tyler agreed. He thought the written deliverable could be as simple as saying an interactive GIS map with the legal descriptions of the governing documents.

MOTION: Tony Tyler made a motion to hire Matt Lapis to create an interactive GIS Map of the Pine Meadow Ranch HOA boundaries, incorporating all of the governing documents associated with the Pine Meadow Ranch HOA, at a maximum cost not to exceed \$800. Dan Heath seconded the motion.

VOTE: The motion passed unanimously.

### Budget Meeting Schedule

Mr. Tyler noted that the Board is required to give notice for any special meetings for any purpose and they must be open to the public. He wanted the Board to set up a meeting to talk about the budget and to have a recommendation from the Board to present at the Annual Meeting. Mr. Tyler stated that typically the Budget meeting is scheduled 1 to 4 weeks prior to the Annual Meeting. The process involves extensive discussion among the Board members on the budget items and projected numbers. The Board comes up with a collective recommended budget and that budget becomes part of the items that are voted on at the Annual Meeting in November.

Mr. Tyler remarked that a two week noticing period for the Budget Meeting would be Tuesday, October 31<sup>st</sup>, which is Halloween. In the past, the Budget Meeting has been noticed on Facebook and posted on the website. The Board agreed to schedule the Budget Meeting on Thursday, November 2<sup>nd</sup> at 6:30 p.m. Ms. Middleton would post it on the website and Facebook.

### SS143-5/PI-D-8 Proposal

Mr. Tyler noted that a couple of years ago Noah approached the Board to work with him to create additional density on his lot, which would be acquired from the adjacent lot owned by the HOA, PI-D-8. Mr. Tyler pointed out that PI-D-8 is heavily impacted and is probably not buildable. Noah owns the land around PI-D-8. The proposal was that the HOA would transfer the density right from Lot PI-D-8 to Noah's lot, and allow him to subdivide and create more value in exchange for a cash payment of \$11,000. Noah would also agree to dedicate a portion of the property as permanent open space for the HOA.

Noah agreed with Mr. Tyler's explanation of the proposal. He stated that he has owned the land since 2004 and he has been a Summit County resident since 1994. He has a family and he likes spending time on the Ranch. Noah clarified that his intention was not to build and flip. He wanted something that could remain in his family for many years.

Mr. Tyler noted that this proposal was never pursued in 2015; however, the Board was considering it at the time. Noah was back now requesting that the Board revisit and reconsider his proposal based on their previous conversations.

Mr. LeCheminant clarified that the lot would remain part of the Ranch. Mr. Tyler answered yes. Noah explained that when he first acquired his piece he understood that the entire parcel was not part of the Ranch. In that time, he made voluntary payments to be good neighbors and foster good relations.

Mr. Tyler explained that Lot PI-D-8 is a lot of record and it technically has a building right. The lot is heavily impacted by three roads; Pine Meadow Drive, Alexander Canyon, and a section of Forest Meadow Road. The lot is technically buildable, but it would be challenging to put a house in that location. When Noah first came to the Board with his proposal, Mr. Tyler thought it was a good way to provide permanent open space long term. It is also a way for the HOA to divest of an asset that has no benefit, but is a cost to the HOA in tax payments.

Jonathan Hoffman asked if Noah or Mr. Tyler have talked to the residents in the area in terms of impacts and how they feel about it. Noah replied that he had not spoken with the neighbors but he thought it was a good idea. Mr. Hoffman stated that he lives far enough away from this property that it was difficult for him to assess the impacts. He was curious to know what the perceived impact might be on the surrounding neighbors. Noah suggested that if the Board would discuss what is appropriate, he would take the time to visit the neighbors to let them know what the Board views as appropriate and ask for their opinion. He would then report back to the Board. Noah did not want to spend the time talking to the neighbors without knowing whether it was something the

Board would even consider.

Someone pointed out that this proposal would require a legal replat of the SS-143-5 lot. If Noah files for the replat, by law Summit County would have to send out a notification to all neighbors within 300 to 1,000 feet of any border of the property. If anyone files a grievance within two weeks, it would then go to small claims court. He noted that even if the Board approved this, it would be subject to legal standards under Summit County. Mr. Hoffman stated that his concern was for the residents. As a representative of the community he thought it would be nice for Noah to reach out to the neighbors before it resulted in legal action. He preferred that Noah do that due diligence before the Board has their discussion. Mr. Hoffman was not opposed to the concept and he liked the idea of space. He thought the impact would be small; however, the perceived impact on the local neighbors might be different.

Ms. Middleton stated that if she was thinking of the right area, it was already used as open space. People start up snowmobiles early in the morning creating a lot of noise, and she did not believe that would change if it continued to be open space. Mr. Hoffman did not believe the creation of the open space would be a detriment. His concern was the creation of the single additional lot. Mr. Tyler clarified that this proposal would not create an additional density right. It would be taking a density right that the HOA owns and moving it to Noah's lot; making the HOA lot unbuildable. It is a neutral density proposition.

Mr. Heath stated that the HOA property should be appraised before the Board pursues this proposal. Historically, any time the HOA sells a property they have it appraised because the Board does not assign value. Mr. Heath requested that the Board discuss this proposal in a closed meeting to decide what is best for the community. Mr. Tyler agreed.

Mr. Rosing understood the concern for the neighbors in the surrounding areas, but he thought it was important to remember that the Board represents everyone on the Ranch. He suggested that it could be detrimental to limit the scope to just the people next door because the entire community has an interest in what goes on. Ms. Middleton reiterated that a lot of people use that area.

Mr. Tyler assumed from the comments that the Board was generally comfortable with the concept. The Board concurred. The next step would be for the Board to discuss the proposal in closed session and determine how to move forward. He would contact Noah once the Board makes their decision.

Noah asked for direction from the Board as to whether or not he should begin meeting

with the neighbors. Mr. Tyler replied that based on Mr. Rosing's comments, he thought the Board should post a dialogue on the website so the entire membership is aware of what the Board is considering.

Someone asked for the proposed square footage or acreage of the replat that would be done on the non-buildable area that would be exchanged for PI-D-8. He was told that it was approximately 1.75 acres.

Mr. LeCheminant commented on the 10 acres that was landlocked that a previous Board had granted a road easement. The owner was trying to sell the property and had sent a check for the right-of-way. The check bounced and Carol has been unable to reach them. He would forward the documents to Mr. Rosing to see if the HOA could terminate the easement. Mr. Tyler explained that there is a landlocked piece of ground, and at some point in time the HOA granted an easement to that particular parcel across HOA owned property. The easement was not revocable, but it had a license fee associated with it that is paid annually. The owners have not paid the fee for the last few years and have since decided to sell the property. They realized they had not paid for the easement and sent a check to the HOA. The check bounced and the owners have not responded. Mr. Tyler asked if the Board wanted to pursue removing the easement based on default of the terms of the easement agreement.

Mr. Heath asked if the Board could record a notice with Summit County to ensure that the property could not be sold unless the fees are paid. Mr. Tyler thought they could file a notice of default and remove the easement. Mr. Rosing was unsure with an easement agreement whether they lose the easement if they fail to pay, or whether they just lose the right to use the easement until the payments are current. Mr. Heath was concerned about putting the HOA in a position where the property is sold and the HOA was not paid. Mr. Rosing offered to research the matter.

#### Forest Meadow Plowing

Mr. Tyler stated that he left this item on the agenda because after the Board made a decision at the last meeting, he believed the decision was incorrect because of the timing of the decision. Mr. Tyler stated that at the last meeting the Board obligated the HOA to plow more road than it could feasibly plow today under the existing budget and the existing workload.

Mr. Hoffman thought the decision was to manage the snow removal; not necessarily for the HOA to do the plowing. Mr. Heath agreed that the Board never said that the HOA would actually plow it. Mr. Hoffman recalled that the decision was that the HOA would pay for the snow removal. Mr. Hoffman believed that expense and snow removal were two separate issues. One issue is human and mechanical resources, and the second

issue is money.

Mr. Tyler stated that whether it is money or resources, in either case the Board did not have information available to obligate the HOA to make those payments within the current budget. Everyone thinks they will be able to increase the budget to cover additional costs associated with plowing Forest Meadow, but that decision is up to the membership at the Annual Meeting; not the Board. He felt the Board agreed to write a check without knowing where they would get the funds to cover that check.

Mr. Tyler stated that whether or not the HOA should actually plow Forest Meadow was a separate discussion that he wanted to avoid this evening. He thought it was clear that the HOA has been supportive of plowing at least a portion of that route. His concern was what would happen if the Board recommends a budget that includes the costs associated with plowing that road, but the membership at the Annual Meeting opposes a rate increase and does not vote to approve it. At that point, no one could plow the road because the HOA does not have the work force, and there is no budget to pay someone else to plow it. Mr. Tyler wanted to raise his concern with the rest of the Board.

Mr. Rosing stated that the Board decides to take on x-obligation and sends a budget based on that obligation. However, because the Association approves the budget, if the Association decides they do not want that obligation, the Board has to readjust. Mr. Rosing pointed out that the Board could wait and do that after the Annual Meeting. Mr. Tyler stated that his issue with waiting is that the detrimental impact to the people who live along that road is very different in January than it is today. If they act now, the Board and the Forest Meadow plow group have the opportunity to make plans to plow Forest Meadow Road. If they assume the HOA is doing in and find out later that was not the case, it would be a major issue. Mr. Rosing believed the Board would have sufficient time to readjust their decision after the Annual Meeting in November.

Mr. Hoffman remarked that part of the strategy was to identify the need and the interest to do it, and to work collaboratively to come up with a strategy to actually make it happen; as opposed to just deciding not to do it because the budget has not been approved.

Mr. Tyler stated that another issue that he had responded negatively too was that the Board has never collectively talked about having the HOA plow the entire Loop. It was actually ruled out years ago. Mr. Tyler noted that he was not present at the last meeting so he was unaware of the actual discussion, but he believed the Board made a rash decision in deciding that the HOA would not only plow the section they had talked about plowing, but an additional section of road that is very extensive. Mr. Tyler clarified that



he was not arguing whether or not it was the right decision. The issue is that the Board has been talking about plowing on the Forest Meadow side for over a year, and he thought it was irresponsible to make the decision in one meeting to plow double the piece they have been talking about, and force Jody and Randy to do the work.

Mr. Hoffman noted that having Jody and Randy do the work was not part of the motion, and that interpretation needed to be clarified.

Bruce Hutchinson apologized for not attending the meeting last month. However, in reading the Minutes he was surprised by the irresponsibility of the Board in terms of the reality of the decision. Mr. Hutchinson appreciated the fact that most of the those in attendance were from the Forest Meadow area. He applauded their interest to make the effort to attend these meetings, but he did not believe they fully understand the demographics. Mr. Hutchinson presented a chart of full-time, part-time and lot only owners. Pine Meadow was identified in red, and Forest Meadow was identified in blue. He noted that Forest Meadow hold 25% or less of the total population, yet they were asking that more of the HOA funds be diverted into that area. Mr. Hutchinson believed that was wrong.

Mr. Hutchinson pointed out that the majority of people who attend the meetings are from the Forest Meadow side and that constitutes a special interest. He noted that those who live on the Ranch full time pay 40% less in taxes than those who live there part-time. Mr. Hutchinson stated that Pine Meadow Ranch was originally developed as a seasonal use area, but people have chosen to live up there full-time.

Mr. Tyler thought Mr. Hutchinson was making legitimate points that everyone should be aware of. He agreed that this area was not developed to be full-time, and over time it has garnered a life of its own. Mr. Tyler disclosed that he lives on the Ranch full-time, but full-time users are still the minority of uses on the Mountain. There are 124 full-time homes; 300 part-time cabins; and 400 undeveloped lots. Mr. Tyler clarified that he was not trying to be negative towards any group. He was only trying to give some background.

Mr. Tyler stated that before his time on the Ranch there was a significant amount of discussion and legal action associated with removing snow on the Mountain. He believed everyone, including himself, takes for granted their right to remove snow on the Mountain, because it was legally contested a number of years ago for some of the reasons Mr. Hutchinson had mentioned. People wanted to snowmobile to their cabins and have winter access. They did not want it to turn into a neighborhood subdivision. Mr. Tyler noted that things have changed over time in terms of how the Mountain is used, and he believed it would continue to change and evolve over time. However, a

growing pain associated with change is how to access the Mountain, how to plow snow, and where to plow snow. Mr. Tyler personally thought the issue was a slippery slope.

Mr. Tyler stated that in the past an agreement was set up between everyone on the Ranch that said the HOA would plow to the gravel pit. After a few years, there was another agreement that specified different groups who were plowing specific portions of the Mountain. They were not connected, and it was determined that if they plowed a small section between them it would create a second access off the Mountain as a safety measure. At that time the HOA agreed to continue to plow the existing route to the gravel pit, and to plow the connecting route to create a second access. Mr. Tyler stated that this was the case until the last meeting. The Board has had significant discussions on how the second access gets plowed, but there has not been sufficient planning associated with figuring out how the HOA would take on that obligation.

To address Mr. Hoffman's question about whether it was a cost issue or a work force issue, Mr. Tyler thought it was both. He didn't have the answers, but he thought it was premature to make the decision of adding to the scope without having a broader conversation about how to pay for it.

Mr. Hutchinson stated that the Board was setting precedent. Much of the Ranch is not plowed. The decision that was made at the last meeting opens it up to everyone to demand that the HOA plow the roads. The HOA is unable to handle that. The Forest Meadow residents agreed that the HOA could not handle it at the current rate.

Mr. Hoffman gave the scenario of a large vehicle being stuck at Boyce's during the winter blocking the road and preventing an emergency vehicle from responding to a call. He wanted to know what would happen to the person with the emergency because there was not enough money to plow Forest Meadow and the emergency vehicle could not reach them. Mr. Hutchinson replied that these situations have occurred in the past and they were resolved within a half hour. He thought it was a misnomer that the Ranch is closed down permanently because someone slides off the road. An owner stated that it happened three times last winter and it took eight hours to open the road.

A person who was not at the last meeting asked for a quick summary of what the HOA plows, as well as a summary of the specific route that was added.

Mr. Tyler explained that the HOA plows from the highway up Tollgate Canyon, around Boyce's Corner, around Bobcat Springs, Arapaho up to the entrance of the gravel pit. They continue along Arapaho and turn up Valley View and plow halfway down Valley View. That is where the additional plow groups stopped plowing. He noted that the HOA plowed Arapaho to Forest Meadow last year and the year before to see if it would

stay open better than Valley View to connect the two Ranches. Mr. Tyler stated that the decision at the last meeting would continue from Arapaho to where it meets Forest Meadow, and Forest Meadow all the way down to the highway. Mr. Tyler clarified that originally the HOA would only plow half of Valley View. However, the last two years they have plowed Arapaho as an experiment because Valley View blows over and giant snow drifts close the road. Mr. Tyler stated that up until the last meeting, the Board had talked about plowing the section from Junction Court down to the freeway.

Mr. Hoffman pointed out that at the last meeting a motion was made to plow the entire distance from Arapaho where it intersects with Forest Meadow, down to the highway. That motion was voted on and approved by the Board.

The question was asked as to whether the Board was debating to still plow the connector, or if they were debating whether or not to plow from the connector down to the bottom. Mr. Tyler replied that the Board was not debating anything because the Board made their decision at the last meeting. He had left this item on the agenda for two reasons. The first is because he controls the agenda as the President, and he wanted the opportunity for further discussion because he believed it was the wrong decision. His second reason for leaving it on the agenda is because he expects it to be a big issue at the Annual Meeting. He wanted the rest of the Board and the residents to be aware and prepared at the Annual Meeting, because the change in the existing budget to plow the additional route will require an increase in assessments. The question is how much of an increase will be necessary to accommodate this specific addition.

Mr. Hoffman stated that part of the concern of the residents on the Forest Meadow side is that they do not have the ability to levy assessments from the residents. Only the HOA has that ability. Therefore, the power of increasing their safety and their access as a community lies within an HOA decision. It has always been managed this way, and he suggested that the HOA may need to consider a change. He pointed out that other HOAs do not have small, isolated pods of snow management. Someone understood Mr. Hutchinson's point about trying to keep things the way they were and people snowmobiling to their cabins. However, the way the Ranch has grown, he thought it was inevitable that the roads will be plowed because the community has moved past that point. He believed that trying to manage it as separate pods would be more difficult moving forward. The loop provides an emergency egress to the community, which at some point will be a value to the entire community as a whole. He understood the issue of potentially opening the door to others who will want plowing, but this was a single route that stops.

Mr. Tyler explained that this was a contentious issue because the Board has never

talked about plowing Forest Meadow Road past Junction Court to Arapaho. Secondly, it is a slippery slope because there are many other roads on the Ranch that are traveled as much as Forest Meadow that are not plowed by the HOA. Mr. Tyler clarified that he was not passing judgment on whether or not the roads should be plowed. He was trying to make the point that the Ranch was going through growing pains and they need to figure out how to grow without creating disproportionately beneficial uses for individual groups of people.

Someone stated that for years, whether the HOA was plowing over to Valley View or coming down Arapaho, Forest Meadow residents have been paying for Tollgate to be cleared through their HOA fees; and for clearing the access road that benefits the rest of the Ranch. They do not get a lot of benefit for their dollars out of the Tollgate side primarily because it is usually jammed up. He believed that the inequality already existed.

Mr. Tyler remarked that his reason for bringing up this issue was to let everyone know that even though a decision was made they should still expect pushback at the Annual Meeting. It is an issue that the HOA has to collectively resolve, but it will not be resolved this evening. Whenever they do arrive at a solution, not everyone will be happy. Mr. Tyler stated that the way the Board took action to implement the issue was the problem; not the decision itself.

Mr. Hoffman stated that just because the specific route was not previously discussed did not mean that the Board could not discuss it at a meeting that Mr. Tyler and Mr. Hutchinson had not attended. He understood that there was a lot of opposition when it was discussed previously; but the item was on the agenda at the last meeting and it was thoroughly discussed before the Board made their decision. Mr. Tyler pointed out that he has supported plowing Forest Meadow in the past and he supported it this year. He wanted it clear that he was not saying that it should not be plowed.

On the question of cost, Mr. Tyler estimated that for every quarter of a mile of road the cost is between \$1200 and \$1400 per season. It depends on the severity of the winter and some years the cost could be higher.

Mr. Tyler reiterated that his intent was to explain his position to the Board and to let everyone know that it was still a contentious issue. The Board voted to approve the plow route, which means that the budget the Board prepares in two weeks has to accommodate the additional cost. At the Annual Meeting in November the membership will have the opportunity to make their comments and express their opinions, and either approve, deny or amend the recommended budget.

Someone commented on the concern for precedent. He asked Mr. Rosing if the HOA has already set precedent because they plow Tollgate Canyon road up to the gravel pit. As a Homeowners Association they talk about open space and opening it up to the community. He noted that people on the Pine Meadow side use the Forest Meadow side. They are one community and they should have a route in. He questioned the legality of only plowing one side for one part of the community. Mr. Hutchinson agreed that they are one community. He explained that originally it was set up to plow to the center of this one community; but some decided that they wanted to plow beyond what the association had committed to.

In response to the question about whether the loop that was plowed the last two years would continue to be plowed, Mr. Tyler replied that currently the Board decision is to plow that loop.

Mr. Tyler believed everyone was clear on the issues related to the decision at the last meeting, the budget process and what to expect at the Annual Meeting. He moved to the next item on the agenda.

#### **Monthly Budget Review**

Andrew Pagel reviewed the unpaid bills detail. The Capital One bill was higher than usual because Jody used it to rent the roller. Mr. Hutchinson asked about the bill from Clyde Snow and Sessions. Mr. Tyler replied that Ted Barnes was still doing legal work on items that had not been transitioned to Mr. Rosing. One item related to the fire station lease. Mr. Barnes had started the process and was familiar with the lease. Mr. Tyler noted that the bill from KGC Associates was higher than usual because Carol had sent out the notices for the Annual Meeting.

MOTION: Andrew Pagel made a motion to pay the unpaid bills as presented. Tony Tyler seconded the motion.

VOTE: The motion passed unanimously.

Mr. LeCheminant submitted an invoice in the amount of \$80 for the Board to approve for the stickers on the truck.

MOTION: Tony Tyler moved to pay the invoice in the amount of \$80 as submitted. Dan Heath seconded the motion.

VOTE: The motion passed unanimously.

The Board reviewed the Profit and Loss/Budget versus Actual and the Balance Sheet

dated October 16, 2017.

### **Owner/Visitor Open Forum**

The question was asked as to whether Jody and Randy would be expected to plow the additional route if the Budget is approved at the Annual Meeting. Mr. Tyler stated that they would have that answer in two weeks at the Budget Meeting.

Mr. Tyler had a question from an owner regarding drones. Mr. Tyler could think of no reason why the HOA would ever be involved with regulating drones. He suggested that people who are interested or concerned should contact the FAA or Summit County.

A woman thanked the Board members who voted in favor of the plow route at the last meeting. She did not believe it was irresponsible because it was definitely something that needed to happen. She thought it was important to move forward with that discussion regardless of how quickly or slowly it goes.

Mr. Hoffman stated that the Forest Meadow Emergency Evacuation Fund Committee would meet before the budget meeting to try and give the Board additional information about the costs associated with last year, recognizing that it was an extreme winter.

Mr. Rosing noted that Mr. Heath previously asked about the CC&R updates. He suggested that they first do the GIS mapping, and when they are ready to move forward with the next step he would start cleaning it up. Mr. Tyler intended to put the CC&R update on the agenda for each meeting beginning in January.

Ms. Middleton asked the Area Reps to provide her the information for the plow heads in their neighborhoods. People continually ask her for that information.

The meeting of the Pine Meadow Owners Association Board adjourned at 8:53 p.m.

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Pine Meadow Ranch Owners Association  
Monthly Board Meeting  
October 17, 2017  
Page 23