

PINE MEADOW RANCH OWNERS ASSOCIATION
MONTHLY BOARD MEETING
SHELDON D. RICHINS BUILDING
KIMBALL JUNCTION LIBRARY
APRIL 17, 2018

In Attendance: Tony Tyler – President; Tom LeCheminant - Vice President; Pamela Middleton, Secretary; Jonathan Hoffman (Area 1); Robert Walthall (Area 4); Kirby Wilson (Area 6); Byron Harvison (Area 7).

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

Excused: Jeremy Jespersen (Area 2); Bruce Hutchinson (Area 5); Joe Pagel (Area 3); Andrew Pagel, Treasurer

Guests: Rob Taylor, Lot I-17; Alan Powell, Lot PI-16; Carey and Kathleen Lutheran, Lot FM-C-71; Terry Beaver, Lot D-21;

Tony Tyler called the meeting to order at 6:36 p.m.

Approval of Minutes

March 20, 2018

Pamela Middleton referred to page 2 regarding the water truck. She corrected the minutes to reflect that she had said **other auctions**; not other options as stated in the Minutes.

Pamela Middleton referred to a discussion under the Budget Review on page 7 and changed Mr. Andrew to correctly read **Mr. Pagel**.

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

VOTE: The motion passed. Tom LeCheminant and Robert Walthall abstained. Jonathan Hoffman was not present for the vote.

New Construction/Additions

PI-I-17 – Robert Taylor

Mr. LeCheminant noted that Rob Taylor is the lot owner. He recalled that the plans were approved last fall subject to the completion of certain items. Mr. Taylor was returning to the Board for additional approval.

Mr. LeCheminant stated that Mr. Taylor has metal siding at the end of his chimney box and he was looking for feedback on whether that was acceptable. Mr. Tyler clarified

that there was not a specific requirement in the design documents regarding metal siding; however, the HOA has generally allowed up to 10% to be metal siding, but it cannot be shiny. Mr. Taylor remarked that the metal he has looked at was classified as charcoal in color. He understood that he needed to provide a material sample. The siding would be Hardieboard® all the way around except the chimney stack would be metal.

Mr. Tyler was comfortable with the request, subject to final sign-off on the materials.

Mr. LeCheminant and Mr. Wilson had no issues from the standpoint of the Architectural Committee. Mr. LeCheminant recommended that the Board approve the plans with metal siding on the end of the chimney in a gray color, subject to the final samples that would be submitted to the Board.

MOTION: Byron Harvison moved to Approve the plans submitted for a cabin on PI-I-17, subject to final receipt of color samples on the exterior finishes; specifically, the metal components. Pamela Middleton seconded the motion.

VOTE: The motion passed unanimously. Jonathan Hoffman was not present for the vote.

Jonathan Hoffman arrived.

Lot PI-D-21 – Terry Beever

Mr. LeCheminant reported that Terry Beever, Lot PI-D-21, had submitted plans for an addition. The roof would be green metal. The siding would be tan board and batten to match the existing house. It would have a 7/12 roof pitch. The addition would be 400 square feet on the side house and built to match the existing house.

The Architectural Committee had no issues with the plans. Tom LeCheminant recommended that the Board approve the plans submitted.

MOTION: Byron Harvison moved to Approve the plans for a 400 square foot addition for Lot PI-D-21 per the recommendation of the Architectural Committee. Jonathan Hoffman seconded the motion.

VOTE: The motion passed. Robert Walthall abstained from the vote.

Lot FM-C-71 – Lutheran.

Mr. LeCheminant presented plans for an addition at Lot FM-C-71. The Architectural Committee had reviewed the plans. The property owner wanted to do a brown metal siding to match the existing house. Mr. Lutheran offered to provide a sample of the core-ten rusted metal siding. He anticipated 85% would be metal siding with cedar accents. The roof would be dark charcoal to match the house.

Tom LeCheminant recommended that the Board approve the plans for an addition on an existing house on Lot FM-C-71 subject to restrictions by the Board on the metal siding.

Mr. Tyler noted that the Architectural Guidelines limits metal siding to a minimum of 10%. At 85%, this proposal significantly exceeded the minimum. He was not on the Board when the original house was approved and built, so he was not able to say why the metal siding was allowed at that time. If someone came in today with a house that proposed 85% metal, he would suggest that the Board follow the Guidelines because other projects were declined in the past for the same reason. However, in this case the house is already built, and the owner would like to match the addition to the house. If the Board decides to allow it, they needed to be careful about setting a precedent.

Mr. Hoffman suggested that it could be acceptable if it fits with the environment of the Ranch. Mr. Tyler thought it depended on their definition of environment. Mr. Hoffman thought it was reasonable if it falls in line with the general look and feel of the Ranch.

Mr. Tyler asked if the Board would approve plans for a home with 85% metal siding if one was submitted today. Ms. Middleton did not believe they would.

Robert Rosing stated that if the Board decides to start approving houses with metal siding they would first need to change the rules rather than grant variances. Variances allow for arguments based on interpretation.

Mr. Tyler clarified to Mr. Lutheran that the Board liked the architecture and the existing house, but the addition as proposed did not meet the Architectural Guidelines. The issue is whether the Board could support the fact that the house itself does not meet the Guidelines and whether to grant a variance for the addition to match the house. He pointed out that if they make the decision to allow it, based on legal advice they would have to change the Guidelines. Mr. Tyler remarked that the reason for limiting metal siding to 10% was to avoid having metal structures on the Mountain.

Mr. Tyler read from the Architectural Guidelines that were approved in May 2010.

Under Structures it states, "Stucco, brick, block, aluminum, rusted or painted steel panels, vinyl or other synthetic sidings are not acceptable as primary siding materials. Small areas of these (less than 10% of exterior walls) could be considered at the direction of the Environmental Control Committee when integrated as part of an overall mountain style exterior".

Mr. Hoffman thought the Board could allow the variance, but, limit it to an addition that is part of an existing contiguous structure. Several Board members were comfortable with that approach. It was pointed out that rusted aluminum is very different from stucco.

Mr. Rosing was still uncomfortable with a variance because if the next person is denied, it leaves them open to the potential for a lawsuit. If they choose to grant this variance, they need to be very specific that it was granted solely on the fact that it was an addition to an existing metal house.

Mr. Tyler pointed out that the proposed addition was double the size of the existing house and connected by a breezeway. He noted that there are many architectural styles that connect using different exterior siding materials and they still look consistent. In his opinion, if they approve this, then anyone else who submits plans for a house with metal siding should also be approved. Because this addition is twice the size of the house, they could not argue that they allowed it on a small addition to match the house. The Board would be setting a precedent. The Board has the purview to grant a variance, but the question is whether they want to do it. Mr. Tyler pointed out the Architectural Guidelines not only says small areas less than 10%; it specifically states that rusted steel panels are not acceptable as primary siding materials. He was unsure how the Board could reconcile the facts with this application. He personally liked the house, the addition, and the panels, but it did not meet the Architectural Guidelines. Mr. Lutheran asked why the HOA has architectural guidelines. Mr. Tyler explained that the original Declaration gave the HOA the right to control architecture to maintain the traditional mountain vernacular. Mr. Tyler stated that over time, other communities have adapted certain building materials to a mountain environment; specifically, rusted metal panels. He thought the correct course of action would be to amend the Architectural Guidelines before approving this application, but only if the Board wanted to go in that direction. Mr. Tyler wanted to be cautious in terms of how it is relayed, because it specifically changes a prohibited primary siding material to an approved primary siding material. He explained that while he personally likes what was presented this evening, he has a fiduciary responsibility to the rest of the membership to follow the Guidelines that are in place.

The Board discussed the pros and cons of allowing metal siding. Ms. Middleton wanted

to know the procedure for changing the Architectural Guidelines. Mr. Rosing replied that it was a bigger question than what could be discussed this evening. He pointed out that if they intend to change the rules they would have to give notice of the intent and hold a meeting where people can provide input. The entire process would take approximately one or two months before the Board could change the Architectural Guidelines.

MOTION: Someone made a motion to entertain a variance for metal siding to support the current plans for an addition on Lot FM-C-71 as a one-time exception based on continuing with the current style of the existing home. The motion was seconded.

VOTE: The motion failed by a 2-4 vote.

Mr. Tyler informed Mr. Lutheran that he could change the exterior material, or the Board could consider changing the Architectural Guidelines following a notification process and input from the membership.

Ms. Lutheran noted that they did not have years to do their addition. She could not see any harm in allowing it for their project if the Board intended to change the rules anyway. Mr. Tyler understood her point, but they must follow the correct process. If the membership who attend the meeting voice majority opposition to changing the Guidelines to allow metal siding as a primary building material, the HOA would be open to litigation because they had already granted the variance. Mr. Rosing explained that a variance is typically granted when the governing documents are murky, or the variance is close to what is allowed. In this case, the documents are very clear, and the amount of metal siding proposed far exceeds the limit. The potential for litigation may occur when the next owner proposes something that is not allowed in the Guidelines and they are denied. Mr. Rosing remarked that every variance is another chip in the Association's armor.

Mr. Lutheran stated that as an HOA member, he now formally requests that the Architectural Guidelines for the HOA be reviewed and brought up to date with mountain appropriate styles. Mr. Tyler asked the Architectural Committee to look at the Architectural Guidelines and draft language for the next meeting on proposed changes to the Guidelines. He suggested that they review the Guidelines in the context of what similar HOAs allow.

In terms of timeline, Mr. Tyler stated that if the Board could agree on a recommendation and language to approve changes to the Architectural Guidelines, it could occur at the next meeting. Mr. Rosing clarified that noticing needed to be done 15 days prior to the meeting. The noticing must occur in the typical way that the membership is noticed for

the Annual Meeting. Mr. Tyler stated that it would need to be a mailed notice.

Mr. Lutheran asked if their plans could be approved without the siding material, so they could begin construction this year. Mr. Tyler answered yes; however, there is a risk that the metal siding might not be approved. He clarified that the risk would be on the owner and not the Board. Mr. Lutheran was willing to take the risk and he requested that the Board proceed with a motion to approve their plans.

MOTION: Tony Tyler moved to Approve the Lot Improvement Plan Agreement for the addition on Lot FM-C-17, subject to a deferred submittal on the siding material that meets the Architectural Guidelines. Pamela Middleton seconded the motion.

VOTE: The motion passed unanimously.

Lot FM-D-89

Tom LeCheminant presented plans for Johnson|Dowling, Lot FM-D-89. The Architectural Committee had reviewed the plans and opposed the stucco that was proposed. The owner changed the siding to Hardieboard®. They also recommended a pitched roof. Mr. Tyler asked for the type of siding. He read from the Architectural Guidelines, "cementitious fiberboard such as Hardieplank® may also be approved when specified in a wood grain and color and applied in a traditional wood siding style". He noted that hardboard siding in a panel would not comply. Mr. LeCheminant stated that the listed material is cement board ship lapped siding horizontal in a Sherwood Williams Forest Hill, which is gray. Mr. Tyler pointed out that the drawings specified Hardiepanel®, which is not an acceptable siding material. Mr. LeCheminant acknowledged that the owner would have to revise the siding to meet the guidelines.

Mr. LeCheminant recommended that the Board postpone a decision on the plans submitted until he had the opportunity to talk with the owner.

Mr. Tyler asked about roof material. Mr. LeCheminant replied that it was either a dark charcoal or a dark brown metal roof. It is a shed roof which is allowed. Mr. Tyler stated that if the owner wanted to resubmit the plans via email, the Board would consider approving the plans through email.

FM-B-29

Tom LeCheminant presented plans for a Whisper Creek Log Home. He noted that

there were already several on the Mountain. The siding colors were brown with asphalt earth tone shingles.

The Architectural Committee found no issues with the plans. Tom LeCheminant recommended that the Board approve the plans as submitted. Mr. Tyler noted that the drawings showed stone on the bottom of the siding, but it was not listed as a material. Mr. LeCheminant would contact the owner to verify.

MOTION: Mr. Tyler moved to Approve the plans for a Whisper Creek Log Home on Lot FM-B-29, subject to confirmation that the elevations are accurate in portraying natural stone on the siding material below the brown half-split logs. Robert Walthall seconded the motion.

VOTE: The motion passed unanimously.

Ranch Manager's Report

Jody Robinson reported that the equipment was running well. The HOA purchased a water truck last week. They were currently doing some work on the Ranch Manager's Office. He was finally able to work on the roads yesterday. The leased roller should be on the Mountain after the first of the month.

Mr. Tyler noted that when they purchased the water truck they were given a \$5,000 credit by trading in the old roller. The only requirement was that the roller had to run. Jody worked on the roller for two hours to get it running. Jody stated that the HOA would split the transport cost to bring in the water truck and to take the roller. Jody stated that the water truck is a Sterling brand. It has a 2,000-gallon water tank, which is bigger than the one they were using. The total cost was \$27,500 after the 5,000 trade-in. He still needed to purchase a pump to fill the truck from the pond. The cost of the pump was in the budget.

Mr. Tyler stated that he was selling his 2012 side-by-side if the Ranch was interested in purchasing it to replace the current side-by-side. Due to the conflict of interest he would not be part of that decision. Mr. Tyler outlined the features of the vehicle. He was listing it for \$7500, but if the HOA was interested he would negotiate the price.

Water Company Report

The Water Company had re-scheduled their Board meeting to this Thursday, April 19th.

On-going business

HOA Member Survey

Pamela Middleton reported that people were filling out the survey. She would attempt to print out the results of what they have received to date. The responses have been good. Mr. Tyler suggested that they spend time going over the results at the next meeting.

Ms. Middleton noted that the survey was posted on the Facebook page and on the Website. Mr. Wilson offered to repost it and pin it at the top of the Home page in an effort to get more responses.

Mr. Tyler suggested that Carol use the current email list to send out the member survey. Ms. Middleton commented on the various places where the survey is announced.

New Business

Lot Improvement Plan and Agreement Revisions

Mr. Tyler noted that the final revisions were circulated to the Board via email. The Board had no other corrections or additions.

MOTION: Tony Tyler moved to Approve the final version 4-19-18 the Lot Improvement Plan and Agreement that was circulated to the Board by email, including Robert Rosing's comments to the document. Byron Harvison seconded the motion.

VOTE: The motion passed. Robert Walthall abstained from the vote.

Mr. Tyler asked Ms. Middleton to post the revised Lot Improvement Plan and Agreement on the website. Mr. Tyler recommended adding the newest approval date on the bottom of the document.

Easement on SS146-X

Mr. Tyler reminded everyone that this gentleman was looking for a driveway easement across Ranch property on Tollgate Canyon. This person has requested that they not be required to join the HOA. Mr. Tyler offered to bring the matter to the Board for discussion. Their only reason was that they did not want to be part of an HOA. Mr.

Tyler pointed out that they would not have water access without joining the HOA; however, at this time they were only asking for an easement across Ranch owned property to access their lot. Mr. Tyler informed the owner that he was not aware of any situation where the HOA had granted an easement without the requirement of membership in the HOA.

Mr. Rosing has spoken with the real estate agent and told her that the HOA had done nothing since receiving the email because she had said it was a threshold issue and Mr. Tyler responded by saying that the Board would discuss it at the next meeting. The realtor indicated that they had a diligence deadline by the end of the month. Mr. Rosing had received another email this afternoon where the gentleman reiterated that he did not want to join the HOA, but he might consider it if he had to. Mr. LeCheminant thought that joining the HOA should be a stipulation on the easement. The Board agreed. Mr. Rosing noted that the gentleman also wanted to know what the HOA would charge for the easement. He was unable to answer since the Board had not decided the cost.

Someone asked if the lot could be accessed any other way. Mr. LeCheminant answered no. It is a landlocked property that can only be accessed through another private property. Mr. Tyler understood that the gentleman has the property under contract to purchase, and he was trying to figure out a way to access the property. Mr. Tyler noted that the Ranch parcel was a legitimate access point and he believed it was the right parcel to cross to reach the other parcel. Mr. Tyler explained why he thought it was appropriate to require joining the HOA as a stipulation of the easement agreement. Road maintenance was the primary reason.

Mr. Rosing recalled that the road this gentleman would build if he purchases the lot would improve access to the HOA's parcel. Without additional information or a design, Mr. Tyler was unsure whether the road would be a benefit long-term. Mr. LeCheminant noted that he had discussed three options with the gentleman on Saturday.

Mr. Tyler pulled up the email the realtor had sent just prior to this meeting. She had spoken with her client and he was willing to contractually obligate to pay HOA dues but would prefer not to join the HOA, due to past experience with other HOAs and not because of anything particular to Tollgate. The email also requested consideration for the value added to the HOA's lot in determining a price for the easement given the large cost involved in putting in the driveway to the property. They had attached the first bid for their review. After reviewing the site with Mr. LeCheminant that the final location was workable based on topography. Their surveyor was prepared to present drawings for final approval.

Mr. Tyler noted that the attached bid was from Preferred Paving, which is a company the Ranch has used on lower Tollgate Canyon in the past. The bid was \$251,000 for the driveway.

Someone asked if the driveway would go straight up or if it would switchback. Mr. Tyler suggested that the Board come up with the framework, and have the gentleman submit his final design and orientation for Board approval. He understood from the email that this gentleman was willing to pay the dues, but he did not want to be subject to other HOA requirements, which would include architectural approval and construction fees. Mr. LeCheminant was also concerned with how the driveway would look coming up the Canyon.

Mr. Tyler thought there was consensus that the lot should join the HOA to gain the benefit of the easement. The Board concurred. Mr. Tyler remarked that the second question is the value of the easement. Mr. Walthall recalled from reading the Minutes that there was discussion at the last meeting about \$6,000 to \$10,000 with an annual fee. Mr. Tyler explained how he typically calculates the cost of an easement based on size. Someone recalled from the last meeting that the Board had talked about an annual lease so if there was a discrepancy over use or a change in terms, the Board would have the ability to withdraw the agreement. Mr. Rosing stated that the Board could put terms in the easement. Mr. Tyler remarked that if this person pays for the easement and joins the HOA, their leverage is that he is part of the HOA.

Mr. Tyler stated that if this gentleman agrees to pay 50 cents per square foot based on the amount of land for the easement across the property and he joins the HOA, the next step would be for him to submit his drawings and for Mr. Rosing to either draft an easement agreement or review the other party's easement agreement. If all of that occurs, the Board could discuss it at the next meeting.

Monthly Budget Review

Jody requested authorization to spend \$1800 for the injector on one side of the dump truck motor. One side was done a few years ago and the other side needs to be done.

MOTION: Tom LeCheminant moved to Approve \$1800 for the injectors for the dump truck. Tony Tyler seconded the motion.

VOTE: The motion passed unanimously.

Mr. LeCheminant thought they needed to approve a trackhoe for a month for Jody to dig ditches. Jody stated that he could use a trackhoe for a month if there was money in

the budget. Mr. Tyler asked Jody to send him the cost via email and he would send it to the Board for approval.

Mr. Tyler reviewed the unpaid bills detail.

MOTION: Tony Tyler moved to Approve the unpaid bills as presented. Tom LeCheminant seconded the motion.

VOTE: The motion passed unanimously.

Owner/Visitor Open Forum

Mr. Tyler reported that he and Mr. LeCheminant had met with Alan Powell, the Fire Chief, and Helen Sarand with Summit County regarding the location for the Fire Station. They talked about different types of transfers in terms of how the Ranch provides the land for the fire station to be built. They previously discussed that the land could be sold or traded to the Water Company and then disposed of to the Fire District. That would be a way around the Declaration which prohibits the transfer of any HOA owned land to any government entity. However, if they took that direction, the land transferred would not have a building right on it, which means the fire station could not be built. Helen suggested that Summit County could do a condemnation of the land, which would condemn ownership of the land and dedicate it to the Fire District.

Mr. Tyler explained that the HOA would agree on an appraisal of the land to establish a value. Alan Powell would send the same appraiser that has been used on the Ranch in the past. Once the condemnation document has been filed, the HOA would write a stipulation letter approving it. The Fire District would receive the land as a lot of record because it would have been condemned by Summit County, and they would have a building right associated with the land. Mr. Tyler remarked that it would take a couple of months, but he believed it was the best procedure. He would keep the Board updated on the process.

Jonathan Hoffman commented on the money that was allocated for an RFP for snow plowing that was placed but never followed up with applicants. As a result, Jody and Randy plowed the distance along Forest Meadow between Junction Court and Arapaho, and down Arapaho between Forest Meadow and the winter parking lot. Mr. Hoffman recalled that prior to Jody and Randy taking over, some residents devoted their own time to plow that section. Peter Tilton put in approximately \$400 worth of time plowing; and Rachel put in approximately \$92. Ms. Middleton and others had put in time but were not asking for reimbursement. Mr. Hoffman understood that there was not a formal agreement to reimburse, but he would like the Board to discuss

reimbursement for Peter and Rachel.

Mr. Tyler asked which sections of road were plowed and when they were plowed. Mr. Hoffman stated that it was Forest Meadow between Junction Court and Arapaho. Plowing occurred January through March. Mr. Tyler asked if those who were seeking reimbursement had kept a log. Peter stated that he had submitted a time card. Mr. Hoffman suggested that time cards could be submitted via email so everyone has time to look at the specific roads, dates, and hours before making a motion to approve.

Mr. Hoffman remarked that this was a safety loop that everyone scrambled to maintain when there were gaps in the plowing. In terms of setting a precedent for reimbursement, Mr. Hoffman felt this was a unique situation that was unlikely to be duplicated in other areas. Mr. LeCheminant thought they should approve it. Mr. Tyler stated that if they intend to reimburse some, they should extend the offer to everyone who plowed that section of road and not limit it to two people. He preferred to withhold approval until they know the total. Mr. Hoffman offered to email the time cards and talk with the other plowers. Mr. Tyler suggested that Mr. Hoffman extend the same offer to other plowers and let them know that the HOA Board was considering reimbursing for roads that would otherwise have been plowed by the HOA for this past snow season. Anyone who would like to be included should submit their billable time and hours.

Someone asked about the plan for the road that was torn up by construction. Mr. LeCheminant stated that he had spoken with the contractor and the lot owner. Mr. Tyler asked Mr. LeCheminant to contact Carol and have a notice drafted for Mr. Rosing to review. If Mr. Rosing approves it, they should send it to the contractor and the owner. If the road is being damaged, the contractor will have to repair the road or the HOA will repair it and charge the owner for the cost. Mr. Tyler asked Jody to post a "rough road" sign on a temporary basis until the road is repaired.

The meeting of the Pine Meadow Owners Association Board adjourned at 8:11 p.m.

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