

PINE MEADOW RANCH OWNERS ASSOCIATION
MONTHLY BOARD MEETING
SHELDON RICHINS BUILDING
PARK CITY, UTAH
JANUARY 20, 2015

Board Members: Tony Tyler – President; Pat Kreis – Treasurer; Matt Brown (Area1); Jeremy Jespersen (Area 2), Mark Hodgson (Area 5); Mike Gonzales (Area 6); Tom LeCheminant (Area 7)

Excused: Dan Heath, Honey Parker, Alan Powell (Area 3); Tom Deaver (Area 4)

Ex Officio: Jody Robinson, Ranch Manager

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

Approval of Minutes – December 16, 2014

Mike Gonzales suggested that approval of the minutes of December 16, 2014, be tabled to the next meeting since a number of the Board members who attended that meeting were absent this evening.

Tom LeCheminant referred to page 7 of the minutes and noted that Nick Boyle should be corrected to read **Scott Boyle**.

Owner/Visitor Open Forum and Owner Communications

There were no comments or reports

New Construction and Additions

Matt Brown arrived.

No construction plans were submitted. Mr. Gonzales noted that a property on Woodchuck had been excavated. He assumed the owner would be building this year. He had a discussion with the property owner and gave him his contact information. Mr. Tyler understood that the owner was still deciding where he wanted to build and currently did not have house plans. Mr. Gonzales pointed out that the excavation crossed over the property line, which indicates that the property was not properly staked.

Ranch Manager's Report

Jody reported that the equipment was in good shape. He needed back tires for the dump truck, and noted that the dump truck had not had new back tires for three years. He submitted a quote for \$990 for Mastercraft AXTE, 10-ply tires. Jody clarified that it

was the same tire as the old ones. Mr. Tyler asked if there was a better tire that Jody would prefer to have. Jody answered no. He likes Mastercraft because they hold up well. The tractor was working really well and the grader was in good shape. The roller will need some maintenance in the spring. The cutting edges on the plow were still good.

Jody reported that he was primarily pushing snow. He would be installing the mirror at the bottom of Forest Meadows. He will also put a stop sign at that road in the spring. Mr. Gonzales asked when Jody would be removing the barrels on the road because they needed to be returned. Jody stated that he would give them back in the spring.

Mr. Tyler asked Jody to pick up the road signs on Tollgate.

Mr. Tyler noted that he was not present at the last meeting; however, he had asked Jody to place the rocks in front of the mailboxes. Mr. Tyler had received a call from the Postmaster and she was very concerned about the safety of her carriers. The post office has replaced the mailboxes several times and she assumed it would get so bad that they would discontinue delivering mail. Mr. Tyler asked for suggestions for making it safer. One idea was to move the mailboxes, but there was no place to move them because the postal people refuse to drive up the canyon. It was impractical to move them to the other side of the parking because of cars and the fact that it is UDOT Land. Mr. Tyler found that the mailboxes are on a recorded easement with Summit County and they have a legal right to be located there. After further discussion, he and the Postmaster decided that placing a barrier would be sufficient. Rocks were the least expensive barrier and Jody ordered the rocks for approximately \$500.

Mr. Gonzales recalled asking at the last meeting how the rocks and the barrier was approved. He pointed out that every project that involves money should be approved by the Board. Every vote on the Board is equal and regardless of the source of the request, it should be discussed by the Board to see if there are other alternatives to consider. Mr. Tyler concurred; however, in this case he felt it was important to get a barrier in place immediately. Mr. Gonzales remarked that Mr. Tyler could make phone calls or call a special meeting. Mr. Tyler stated that it was entirely within his discretion as President to spend small amounts of money to maintain the Ranch. Mr. Gonzales disagreed. He noted that the Bylaws stated that the President has administrative authority, not financial authority. Mr. Tyler respectfully disagreed, believing that he did have the authority. He offered to re-read the Bylaws; however, he understood that it was within his authority to administrate the HOA and to manage Jody's time and resources. Mr. Gonzales stated that as a Board they decided that Jody should prioritize the work. The Board approves the projects and they gave Jody the responsibility and discretion as the Ranch Manager to prioritize them. Mr. Tyler pointed out that Jody

reports to him. Mr. Gonzales believed that was Mr. Tyler's interpretation, but it was not the decision made by the Board. Mr. Tyler stated that it was a Board decision and it could be found in the Internal Policies and Procedures, which was a supplement created by the Board two years ago, and it was discussed over several meetings. He was certain that Mr. Gonzales was present for some, if not all of the meetings. Mr. Gonzales did not think it was right for Jody to report directly to Mr. Tyler. Mr. Tyler stated that the decision was made because Jody did not need 11 bosses.

Mr. Gonzales understood the reason why Mr. Tyler made the decision for the barrier, but if it had gone before the Board there may have been better ideas. Mr. Gonzales suggested that Mr. Tyler consider the Board in all matters moving forward since that is their purpose. Mr. Tyler understood Mr. Gonzales' position, but he still felt that he had acted according to the authority that the Ranch has vested in him.

Water Company Report

Mr. Tyler had not attended the Water Board meeting. However, he had spoken with Eric Cylvick and Craig Gilliam, two Board members, to get an update.

Mr. Tyler stated that there was still some controversy over the situation of reporting leaks. He clarified that he personally disagreed with the tactic the Water Board was implementing. He explained that if the Water Company identifies a leak on an individual lot that is on the owner's side of the meter, they do not notify the owner unless the leak affects the overall water system. Mr. Tyler did not believe the number of leaks was excessive, and with two employees they should be able to easily notify the property owner. He would be surprised if they found ten leaks a month. Mr. Tyler asked if the Board shared his view that contacting a property owner when a leak is found is within the scope of the Water Company.

Mr. Gonzales believed it was a discussion to have at the Water Board meeting. He thought people who have experienced leaks should take it up with the Water Board. Mr. Gonzales did not think the HOA Board would be able to do anything because they are separate entities. Mr. Tyler agreed. Mr. Tyler stated that he raised his concerns in a conversation with Mr. Cylvick and he intended to bring it up again at the next Water Board meeting in February.

Mr. Tyler explained that the issue arose when there was a leak on the owner's side of the meter for a home on Navaho. The owners were unaware of the leak until they received their bill. Mr. Tyler understood that part of the issue was that the owners had asked for their meter readings several times. He was unable to determine from the chain of emails whether or not they were able to obtain the readings, but in the end, the

leak created a massive overage and a substantially large water bill. Mr. Tyler did not know if the owners were granted the one-time reduction or whether they had even applied for it.

Mr. Tyler stated that if there is a constant flow in one area for more than 24 hours the system sends an alarm. He did not understand how the telemetry system works and whether it is tied to individual meters so the meter alarms, or if the entire system alarms. He intended to pursue the matter further with the Water Company to understand the process.

Mr. Tyler reported that overall the water system was running well and there were no other major issues. There have been no major leaks this year.

Mr. Brown pointed out that part of the original campaign for the new meters was that leaks would be alarmed and easy to detect. It was all explained in a letter to the property owners. He had personally asked questions about apps and whether the meter could send an alarm to the individual. Mr. Gonzales stated that if Matt still had the letter it would be good to show it to the Water Board as a reminder of what they had told people. Mr. Brown thought the ability to find leaks quickly was the value for spending money on the meters.

Mr. Tyler reiterated that he would raise the issue at the next Water Board meeting and report back to the Board. He encouraged the Board members to attend the Water Company meeting.

On-going Business

Snowplowing and Insurance

Mr. Tyler had left snowplowing and insurance on the agenda because he was unsure what the Board had discussed at the last meeting. Mr. Gonzales explained that the Board was told that the money they were spending on the PMEEF Insurance policy was wasted because there was no coverage. The Board needed to revisit the plow requirements based on information they received. Mr. Gonzales asked who the plowers submit the plowing contract to. Mr. Tyler stated that it was anyone on the Board or Carol. Mr. Gonzales stated that presumably anyone on the Board can sign the contract, but there is no central repository of who is approved. Mr. Tyler recalled that last year the contracts were signed at the plow meeting and Carol prepared an approved plower list. Those who had not attended the meeting signed and submitted contracts on their own and their name was added to the list.

Mr. Gonzales suggested that each area rep observing the plowing should also be aware, which is why it was important to have a central person. That person could then give Carol a copy. If anyone has a question it is clear which people have agreed to the terms. Mr. Gonzales believed the current process was haphazard and lacked accountability.

Mr. Gonzales stated that since they were no longer using the insurance, he would draft general requirements that are a little different from what has been done in the past. He stated that they currently stated that the plowers should be sensitive to winter vehicles such as snowmobiles, and to leave a 6" base. He noted that the language was originally drafted when the mountain was less occupied. Mr. Gonzales remarked that the grade in some of the areas they now plow is unsafe for driving vehicles to leave a thin layer of snow. He thought the first consideration should be the safe passage of vehicles. He would draft language that puts safety first and recreation second.

Mr. Tyler asked about insurance. Mr. Gonzales stated that he had looked at a lot of HOA requirements for plowing and none of them mentioned insurance. He and Alan Powell had a discussion about insurance and people who plow should provide their own insurance. Mr. Gonzales recognized that someone plowing without insurance could create a liability risk for themselves, but the HOA would not be liable. He noted that the Board could still set requirements for the standard of service. Mr. Tyler preferred that type of process because it would be more consistent. Mr. Gonzales pointed out that it would only be consistent if they enforce it. Mr. Tyler asked Mr. Gonzales to work with Alan Powell to draft standards for review at the next meeting. Mr. Gonzales stated that they would draft the language and email it to the Board for edits so it could be finalized at the next meeting.

Sledding Hill

Mr. Tyler noted that they were still waiting for language for the signage. Mr. Gonzales recalled that Mr. Heath had agreed to pick up the hay bales and they were going to clear out the rocks and signage. Mr. Tyler stated that none of those things have happened. Mr. Tyler asked the Board to remind him to put the sledding hill on the agenda during the summer so it would be ready for winter.

Deer Meadows

Mr. Tyler had received an update from Ted Barnes and a follow-up from Doug McAllister. A few exhibits needed to be filled out that were add-ons to the agreement. He stated that the Board has already approved the agreement. The documentation that needs to be provided as part of the exhibit included the tax ID numbers and the fee

covenant agreement for the transfer fee. Mr. Tyler had received the documents but he had not had the opportunity to review them. Once they are reviewed he would email it to the Board.

Mr. Gonzales asked if Mr. McAllister was paying dues. Mr. Tyler was unsure whether he was paying the dues on the Uncle Tom's cabin lot. He asked Carol for that information.

New Business

Board Member Roles

Mr. Tyler had received an email from Mr. Gonzales. Mr. Tyler referred to the Internal Policies and Procedures which was revised February 1st, 2013. Mr. Gonzales stated that those were internal policies and procedures. His comments go back to the Bylaws. Mr. Gonzales remarked that the Board could not override the Bylaws with some other document to change the basic structure of the HOA. He believed they had attempted to do that with the internal policies. He pointed out that a change to the Bylaws requires an annual meeting of the majority of the present members in good standing.

Mr. Tyler believed that the point of the Internal Policies and Procedures was to address the gray areas that are not addressed by the Bylaws. Mr. Gonzales clarified that when he sent Mr. Tyler a note regarding roles within the Board, he was referring back to the Bylaws. He stated that based on the discussion at the last meeting, they were operating under the mis-belief that some Board positions were only for two years, and that is false. All Board positions are for three year terms. Mr. Tyler agreed. Mr. Gonzales pointed out that the main purpose of the role of the Vice-President is to provide leadership in the absence of the president. That has not been the case when Hutch Foster was President or now with Mr. Tyler as President. Mr. Gonzales had serious concerns about that.

Mr. Gonzales stated that in thinking of the most recent vote for offices, he questioned whether they were in compliance because they never formed a nomination committee. In that circumstance the votes could be null and void. Mr. Gonzales could not recall ever having a nomination committee. Mr. Tyler did not believe a nomination committee has ever been formed. Mr. Gonzales stated that just because they never had one did not make it okay. It only means they did not do their job and they are all probably not legitimate officers of the Board.

Mr. Tyler asked the Board members to read the Bylaws and suggest changes over the course of the year for discussion, so they can present those changes at the Annual

Meeting as a recommendation from the Board to change the Bylaws. Mr. Tyler would start the discussion through email and put it on the agenda moving forward.

Mr. Gonzales explained that his motivation to look at the Bylaws was due to the legal risk they put themselves in again and again. In looking at the requirements for other HOAs, the primary issue is how they are getting sued. He believed this Board has been lucky because there are many reasons why they could be sued as a Board.

Mr. Tyler asked if it would be worthwhile to have Ted Barnes attend a meeting during the summer to identify areas where he thought they were at risk for lawsuits. Ms. Kreis thought it was better for the Board to be more organized with facts and have consensus on stated issues, and then get advice from the attorneys on those particular issues. She felt that a free-for-all debate with an attorney would not be an appropriate use of time or money. Mr. Tyler stated that his suggestion for inviting Ted Barnes to a meeting was to have a conversation to identify the issues rather than to just get a legal opinion on specific issues.

Mr. Gonzales cited examples for why other HOAs have been sued, and he thought Pine Meadow had the same risks. Ms. Kreis suggested that one Board member be assigned the task of compiling a list of concerns where they recognize liability. They could allocate a portion of the attorney's time to address those issues. Mr. Tyler noted that some of the issues should be handled in executive session and not during a regular board meeting. For example, he would not want discussions regarding legal issues to take place in a regular board meeting. Mr. Gonzales pointed out that it would not hurt the Board to start enforcing the rules they are supposed to support.

Mr. Brown asked if Mr. Barnes thinks they are a legal Board based on their voting process. Mr. Tyler stated that Ted has never said anything to the contrary. He was fairly certain that they were legally a Board, but he would contact Mr. Barnes to get his opinion. Mr. Brown pointed out that the members were elected through a voting process by the membership and the votes were counted. Mr. Gonzales stated that it was not conducted through the due process of a nominating committee. Mr. Tyler remarked that elections are conducted in the same manner as it was traditionally done in the past. He thought the real issue was to bring things into conformance with what they were actually doing, and then change the things that need to be changed.

Miscellaneous

Ms. Kreis noted that in the past the Board has recognized Carol's performance by giving her tickets to Hale Theatre. She noted that the Board had agreed at the last meeting to give her tickets again, but no one had followed through on doing it. Mr. Kreis

understood that as the President Mr. Tyler works directly with the employees and contract employees, and she wanted to make sure it remained on the list of things to do. Mr. Tyler recalled that last year they offered Carol either tickets to Hale Theatre or the cash value of the tickets, and she elected the cash value. He suggested that they make Carol the same offer this year. Mr. Tyler offered to follow up with Carol.

Ms. Kreis reported on getting quotes to have an auditing company look at the last three years of earning records. She stated that Carol told her that 2006 was the last time an official audit was done. Ms. Kreis thought it was good business sense to move forward with the audit process. She recently sent a request for a quote to four companies, including the one Mr. Hodgson had recommended. She set February 11th as the deadline for submitting the quotes. Ms. Kreis noted that the audit that was done in 2006 cost \$10,000. She anticipated \$12,000 to \$15,000 for this audit. She would have the quotes prior to the next meeting, at which time the Board could make a decision. Ms. Kreis stated that if the cost is too high, they could cut back on the scope of work. Ms. Kreis believed the biggest issue was lack of communication. When she was preparing the budget and asked questions, no one knew enough to answer her questions satisfactorily. If they have an outside audit, she would suggest that they include a recommendation in the final report on how they could function more efficiently. Ms. Kreis offered her own suggestion on how they could be more efficient and compliant with HOA laws. The intent is to make sure they are managing well and have a paper trail.

Nightly Rentals

Mr. Jespersen asked if they were enforcing nightly rentals because it was becoming more of an issue. Mr. Tyler reported that a number of years ago the Board at the time decided to ban nightly rentals and include them in some of the documents. They have since found out that the ban is unenforceable and the Board does not have the legal right to ban nightly rentals. Because it is a restriction on the use of the property, the Utah State Legislature determined that that type of restriction must be included in the HOA CC&Rs, which is the true governing document. He noted that Pine Meadow Ranch CC&Rs does not have that restriction.

Mr. Gonzales thought the CC&Rs restrict business use of the property. Mr. Tyler replied that business use is a different issue and a Summit County regulation. Mr. Gonzales stated that if the CC&Rs address business use, the HOA has the opportunity to fine an owner because renting is a business transaction. Mr. Tyler offered to look at the commercial use in the CC&Rs to see if it would apply to nightly rentals.

Mr. Tyler explained why there were multiple sets of CC&Rs and how they came about.

However, the Board only follows the current set of CC&Rs that are posted on the website. Mr. Gonzales suggested that they also put the grant application for road improvements on the website.

Mr. Tyler suggested the possibility of addressing nightly rentals the same way they do the CWMU. Since they were operating a business use across private Ranch roads, the HOA does not agree to that use and, therefore, they do not have commercial access to the roads. When he previously mentioned it to Ted Barnes, Mr. Barnes told him that without doing more research he was unsure whether the same argument would hold up for nightly rentals. Mr. Gonzales noted that if neighbors report a disturbance issue the Board could take action based on that complaint. Ms. Kreis stated that when a renter comes on to the property they are not familiar with the Bylaws and the CC&Rs. The owner has the responsibility to make the renters aware of the rules and regulations, but that most likely does not occur. She believed that was an issue that creates problems.

Mr. Tyler stated that Summit County requires a business license to operate nightly rentals and he has spoken with the County about rentals on the Ranch. People are actually required to apply for a license at the County level and the application is forwarded to all the service providers for that area. The providers have to sign off to get a business license for that particular property. Mr. Tyler considered the Ranch a service provider because they own the roads; however, they have never been treated as such and he thought they could object in this particular case. He would speak with the County Attorney on this issue. Mr. Tyler questioned whether any of the service providers were being notified.

Mr. Jespersen shared Ms. Kreis' concern about renters being unfamiliar with the rules and regulations on the Mountain because it creates a hazard and liability for the HOA.

Mr. Brown left the meeting.

Mr. Brown noted that before he left the Board, Nick Boyle had made the Board aware of a situation with the Olsen's. He asked if that issue had been resolved. Mr. Tyler stated that he received a call from Mike Olsen a few days earlier and he offered to ask the Board what was discussed since he had not attended the last meeting. Mr. Tyler explained to Mr. Olsen that the "fence" is not really a fence in terms of enforcement on the Ranch. He told Mr. Olsen that fencing the entire property or fencing a pen for animals is not allowed. However, to install a single straight line of fencing is not considered a fence because it does not enclose. Mr. Gonzales remarked that straight line fencing still impedes animal traffic. Mr. Tyler did not believe the fencing impedes any more than the house does.

Mr. Gonzales thought Mr. Olsen had raised good points about the change in color scheme and other problems related to his neighbors. He thought Mr. Tyler should be removed from the matter because of some of the emails indicating that he knew the owners but not Mr. Olsen. Mr. Tyler stated that he would prefer not to be in the middle of it. Mr. Gonzales thought the perception was that Mr. Olsen was the bad guy, when in fact, he was gathering evidence and doing whatever he could to support his comments and complaints. Mr. Gonzales suggested that Mr. LeCheminant, as the new Area 7 rep, should meet with both parties and tell them they need to comply. Mr. LeCheminant stated that if Mr. Gonzales was talking about the red door, the door could not be seen driving past the house on the road. Mr. Gonzales replied that the point was enforcing compliance, and not whether or not it could be seen. Mr. Gonzales stated that if they make Mr. Olsen follow the rules and comply, but not enforce compliance for his neighbor who was complaining, then the Board was not doing their job. He emphasized that the Board could not show favoritism. It was another risk of the lack of equity in how they apply the CC&Rs.

Mr. Tyler stated that he had a cordial conversation with Mr. Olsen and he offered to bring the issue up to the Board. He agreed that Mr. LeCheminant should speak with the property owners in an effort to resolve the issues.

Monthly Budget

Ms. Kreis summarized the status of the year-end dated December 2014. She noted that page 1 of the profit and loss/budget versus actual for the 2014 calendar year showed very good performance on revenue. They had projected to collect \$266,000. They actually collected \$295,000 which represents 111% of collections. Ms. Kreis noted that some of the amount collected was from fines, but it does count as revenue.

Ms. Kreis referred to page 2 and noted that they have been carrying a line item as Property Taxes, where they budgeted \$10,000 for the Equipment Reserve Fund. She also noted that another line item shown as Equipment Reserve Fund expense had \$10,000. Ms. Kreis requested a motion by the Board to move that \$10,000 into the reserve savings account now that the year is over. It is currently in the checking account.

MOTION: Tony Tyler moved to transfer \$10,000 from the equipment reserve fund into the reserve savings account. Mark Hodgson seconded the motion.

VOTE: The motion passed unanimously.

Ms. Kreis noted that the net income for the entire year of 2014, it shows a surplus of

\$15,478. However, once the \$10,000 is transferred to the savings account, the surplus would be \$5,748 and that amount would remain in checking.

Ms. Kreis stated that a lot of work was done in 2014 and they were still showing favorably on the budget. She attributed that to the efforts of the Board and the help they received from Summit County.

Ms. Kreis referred to the profit and loss/budget versus actual for 2015, dated January 20, 2015. She noted that Carol had taken the budget that was presented to the owners and voted in favor, and she set everything up to match exactly what was presented and voted on. Ms. Kreis pointed out that as of this date, they had collected 8.4% of the budgeted revenue. Revenue Recovery was involved. Carol had been sending out invoices and she was engaged in the collection of revenue.

Mr. Gonzales asked why the budgeted assessments were lower this year than last year. Mr. Tyler replied that there was a discrepancy in the number of lots used for the calculation. Mr. Gonzales thought they had considered the dues coming from Deer Meadow lots. Mr. Tyler stated that when the budget was approved at the Annual Meeting they did not plan on money from the Deer Meadow lots. Mr. Tyler explained that the numbers from the 2014 budget that was approved at the Annual Meeting was incorrect because the number of lots was inaccurate. Ms. Kreis noted that they have exactly 813 lots and that is what Carol will be invoicing to collect revenue. They can only project the exact revenue they expect to receive.

Ms. Kreis reminded the Board that there was \$30,000 as a line item to be rolled over into reserve at the end of 2015. They reduced the budgeted amount of road projects and road repairs to have the roll over. Any changes would require a motion by the Board.

Ms. Kreis reviewed the unpaid bills detail. Most of the bills were the usual expenses. She noted that the check in the amount of \$98.00 to Auto Owners Insurance was an increase in the premium for the new tractor. Mr. Tyler believed a large portion of the bill from Clyde, Snow and Sessions were charges for drafting the Deer Meadows Exhibits.

MOTION: Tony Tyler made a motion to Approve paying the unpaid bills as presented. Mark Hodgson seconded the motion.

VOTE: The motion passed unanimously.

Mr. Tyler had received the final bill on the Forest Meadow Road reconstruction project. The first two draws were paid and he had the third one. He was waiting on one final

invoice from the surveyor. Mr. Tyler had issues with the invoice from JE Excavation. He noted that they came in slightly under budget on the overall project by approximately \$7,000.

Mr. Gonzales noted that he had sent Mr. Tyler a note regarding terms limits, and he thought it was an issue that should be raised at the Annual Meeting. He noted that the Board had an extensive discussion at the last meeting, and in the interests of time this evening, he recommended that the Board continue that discussion at the next meeting. Mr. Tyler stated that in his opinion, it is difficult to find people who are willing to volunteer their time to sit on the Board. He has never seen term limits in an HOA. Ms. Kreis stated that she had seen term limits in HOAs. She favored terms limits because everyone should have an opportunity to serve on the Board. However, being new on the Ranch she was unfamiliar with the interest or lack of interest by the people. If they have difficulty finding volunteers to serve, she would agree that term limits might not serve a purpose. Mr. Gonzales believed the problem was a complacent membership who was happy with the Board; but he believed someone would always step up if they realized there was a vacancy. Ms. Kreis felt there were ways to encourage people who may not come forward on their own volition. She liked the idea of bringing in new thoughts and new debates and keeping the community involved on the Board. Mr. Hodgson thought that might be accomplished by having a nominating committee.

Ms. Kreis found a detailed breakdown of the Clyde Snow and Sessions invoice in the packet and she highlighted the major line items for the Board.

The Meeting of the Pine Meadow Owners Association Board adjourned at 7:53 p.m.
