

Approved  
January 19, 2016  
as corrected

PINE MEADOW RANCH OWNERS ASSOCIATION  
MONTHLY BOARD MEETING  
SHELDON D RICHINS BUILDING  
PARK CITY, UTAH  
December 15, 2015

In Attendance: Tony Tyler – President; Honey Parker, Secretary; Pat Kreis, Treasurer; Matt Brown (Area 1); Jeremy Jespersen (Area 2); Alan Powell (Area 3); Tom Deaver (Area 4); Mark Hogdson (Area 5); Tom LeCheminant (Area 7).

Ex Officio – Jody Robinson, Ranch Manager

Excused: Dan Heath, Mike Gonzales (Area 6)

Guest: Janell Vanderwerf

The meeting was called to order at 6:40 p.m.

### **Approval of Minutes**

#### Special Budget Meeting – November 3, 2015

Mr. LeCheminant referred to page 2 where Lori Maag was talking about her lot. He then noted that page 3 turns to a landscape discussion. He asked if that was still Lori Maag talking about landscaping. Mr. Tyler stated that the landscape discussion was not Ms. Maag. He recalled that it was the young couple, Tim and Amber Martinez, who were new to the Ranch; and that Ms. Martinez was the one who had asked about watering their trees.

Mr. Tyler corrected page 3 to replace, “some understood....” with “Amber Martinez, Lot D53, understood that landscape watering was prohibited and asked how they could keep their trees alive.”

#### November 17, 2015

There were no changes.

MOTION: Alan Powell moved to APPROVE the Special Budget Meeting Minutes of November 3, 2015 as amended; and to APPROVE the minutes of November 17, 2015 as written. Tom LeCheminant seconded the motion.

VOTE: The motion passed. Pat Kreis abstained from voting on the November 17<sup>th</sup> minutes since she was not present. Mark Hogdson abstained from the vote.

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

Janell Vanderwerf stated that she had come to the Board meeting to meet the Board after talking with Tom Deaver.

Tom Deaver explained that Balsam Circle was on the plat map but it was not on the Summit County Records. He remarked that the older gentleman who lives in the tower house on Lot C-50 has a tendency to put his stuff on other people's lots. Mr. Deaver spoke with him last summer and others have threatened legal action to get him to move his things. Mr. Deaver noted that Ms. Vanderwerf owns Lot E-82, which comes out to that point, and the only decent access is off Navaho Drive. Ms. Vanderwerf wants to be able to work on her lot in the Spring and she wanted to know about access and other things. He thought Ms. Vanderwerf was being totally reasonable in her concerns; however, it is not an HOA problem because it is not on HOA property.

Mr. Tyler stated that the HOA would have authority if there is a platted road. Mr. Deaver stated that Carol already checked with the Summit County and there was no lot of record. He read an email that Carol sent to Ms. Vanderwerf with the subject PI-82 and C-50. "Hi, Janell, attached is the Summit County GIS map of the area. There are more lots involved than just C-50. You'll need to approach PI-E-100, PI-E-95. Summit County shows no road because these lots own that piece of property. Since the trailer and bulldozer is on private land there is nothing the HOA will or can do. It is a civil matter".

Mr. Tyler offered to pull up the plat for the parcels and look at it. Mr. Deaver remarked that Ms. Vanderwerf's only access to her property is through that point because Heather Lane is too steep and tight. Mr. Deaver noted that the gentleman moved his stuff once, but apparently he has put it back. Ms. Vanderwerf would like to have the issue resolved so she can access her property when the snow melts. Ms. Vanderwerf remarked that there was a possibility that the gentleman had removed everything before the snow came. Mr. Tyler recalled that some of it had been moved.

Mr. Tyler noted that there was a website that Ms. Vanderwerf could access to research the recorded plat map. He told her to search for Pine Meadow Ranch Plat E.  
Website: <http://property.summitcounty.org/eaglesoftware/eagleweb/docSearch.jsp>

Ms. Parker was informed that someone was shooting a commercial for Ford on the Ranch. In her opinion, if someone wants to shoot a commercial on the Ranch they should ask permission and pay a fee. Ms. Parker pointed out that Ford could definitely afford to pay a fee. Mr. Tyler agreed that the Ranch is private property and not intended to be used for commercial purposes. Mr. Deaver gave the name of the person who had set it up. It was put on and the Pine/Forest Meadow Social Facebook Site. The commercial was shot with Ken Block, a famous rally driver. Mr. Deaver noted that

subsequent emails specifically stated that Park City, Pine Meadow, Forest Meadow, and Tollgate would never be mentioned in the commercial. Ms. Parker thought the Board should send a letter to the person in charge. The question was whether they should warn him not to do it again, or whether they should charge a fee.

Mr. Tyler asked Carol to obtain the contact information for Ken Anctil and forward it to the area rep where he owns property. The area rep should contact Mr. Anctil saying that the Board was informed that private Ranch roads were used for filming a commercial, which is not allowed without permission. The area rep should also ask Mr. Anctil how he anticipates compensating the HOA for using the roads.

Mr. Jespersen had received an email from Mike, *from the owner of Lot C-73, Paul McCarty*. He had built a shed, insulated it and added power and utilities. Mr. Jespersen offered to visit the lot to see what was built.

Alan Powell stated that he was approached by several people about bringing back the construction impact requirement for the winter to discourage people from building during the winter. Mr. Powell asked if the Board was interested in discussing whether or not to bring back a discount for not building in the winter or an additional charge for winter building.

Mr. Brown asked if they could add requirements in the Lot Improvement Plan Agreement. Whoever is working on construction after November 15<sup>th</sup> is required to put chains on when they enter the Ranch.

Mr. Tyler stated that he would bring a copy of the Lot Improvement Plan Agreement to the next meeting for the Board to review and update. In addition to road damage, winter construction can also be a matter of safety if the roads are blocked by vehicles that cannot negotiate the roads in the winter. Mr. Deaver suggested adding a clause to the Agreement that once snow is on the road chains are required regardless of the vehicle or the situation. Mr. Powell was interested in re-establishing the \$2,000 impact fee. He understood that it was difficult to enforce, but it helps to get their point across. Mr. Tyler would put in on the agenda for the next meeting.

### **New Construction/Additions**

There were no plans presented or reports given.

### **Manager Report**

Jody stated that he has been spending his time pushing snow and doing equipment

maintenance to get ready for the winter. Cody was gone this week and would be back on Sunday.

Mr. Deaver commended Jody for an incredible job keeping the roads on Tollgate cleared and sanded.

Jody reported that the remotes were put on the tractor. The grader was in good condition. He had the snow plow put on the truck the other day. He assumed it would be on the bill next month. Jody stated that he needed to get a couple more sets of chains for the truck.

Jody stated that he had already used half the sand. He thought he could get more sand hauled up, but the hauling rate would be higher.

Mr. Tyler stated he had asked Jody to clear Arapaho to Forest Meadows as an experiment if he has time. He commented on issues with the wind blowing snow back on the road after it's been plowed. Mr. Parker stated that when the owners first proposed the idea of plowing the connector they looked at plowing the other because of the wind issue; however, that was significantly further. Therefore, they tried to determine whether it was more cost effective to plow further or to plow more often because of the wind. She could not recall why they chose the option they did. Mr. Tyler thought they had made the right decision because it is a shorter route, but it does need to be cleared more often.

Mr. Tyler suggested that they have Jody blow it out if he has time and let him make the determination as to which direction it should go to clear the connector.

Jody requested approval to purchase chains for the truck. The cost is \$130 per set.

MOTION: Tom Deaver moved to authorize Jody to spend up to \$300 for a couple sets of chains for the truck. Tom LeCheminant seconded the motion.

VOTE: The motion passed unanimously.

### **Water Company Report**

Mr. Tyler reported that the Water Company did not meet in December. He had attended the Annual Meeting in November and it was primarily business as usual.

Mr. Tyler stated that with the connection to Mountain Regional the Water Company was banking water. Mountain Regional had a couple of leaks on their side of the system

and Pine Meadow Water back fed them water to help find the leaks. Therefore, the Water Company banks that amount of water so if they need it Mountain Regional can feed Pine Meadow that banked amount at no charge.

Mr. Tyler noted that Pine Meadow used 50% more water this year than in past years. He believed it would be closer to 70% more by the end of the year. Ms. Parker asked if the reason was due to more people on the Ranch. Mr. Tyler replied that it was a combination of more people and more usage. He stated that there has been significant discussion about rental cabins and the amount of water used by the renters. However, those who own the cabins subsidize the rest because they pay for the excess water that is used, which is significantly more than anyone else. He pointed out that rental cabins is the reason for the current rate structure.

## **Miscellaneous Business**

### Nightly Rentals

Ms. Parker remarked that the idea of rental cabins is an issue that keeps coming up in terms of whether they are or are not allowed. She asked if anything could be done about it. Mr. Tyler stated that the Ranch was not set up to prohibit nightly rentals or rentals of any kind. In 2006 the Board attempted to ban nightly rentals through the Rules and Regulations. At that time it would have been legitimate. However, in 2008 the State passed a Statute that prohibits Homeowner Associations from limiting an owner's ability to rent their unit on a nightly or otherwise basis, if a prohibition did not exist in the CC&Rs. Mr. Tyler believed that the only path to banning nightly rentals would require amending the CC&R for the Ranch, which is a practical impossibility because it would require 75% of all of the homeowners of the Pine Meadow and Forest Meadow Ranch to vote for the ban. He pointed out that for other voting they are lucky if 20% respond.

Ms. Parker clarified that she has been asked several times and she was not clear enough on the matter to give a proper reply. Mr. Tyler stated that nightly rentals are not encouraged, but if someone asks about it they do have the right to rent their property. Mr. Tyler pointed out that nightly rentals require an owner to license with the Summit County clerk. He has requested that the clerks deny the applications because the roads are not serviced by the Summit County, but to date they have not honored his request. Mr. Tyler personally felt nightly rentals presented a safety issue because renters do not understand the road conditions on the Ranch.

Mr. Deaver recalled that at one time the Commissioners talked about doing a zoning called a "cabin area" where rentals would be forbidden. Mr. Tyler stated that cabin area

zoning is currently in the process of being approved. However, they pressed heavily for the cabin area zoning to include a prohibition on nightly rentals and the County said no, because they did not want lawsuits.

Mr. Deaver stated that one case in his area people were told that only family members would be using the cabin, but in reality it is a weekend rental. Mr. Deaver stated that the problem got resolved because no one plows the road. He pointed out that people down by Running Deer on the lower end of Navaho said, "hell no", and they won't plow the road to allow for nightly rentals. Mr. Tyler remarked that those were private issues that do not involve the HOA. From an HOA perspective nightly rentals cannot be prohibited and he did not believe there was enough support for a ban.

### Signage

Mr. LeCheminant stated that he had been looking at signs to address some safety concerns. Mr. Tyler stated that on his own initiative Mr. LeCheminant had a few signs designed and priced. He presented the samples. One would go at the highway at the bottom of Tollgate. The other one would be at Oil Well. One could also be placed on the Forest Meadow side as well right before the pond. Mr. Tyler stated that he and Mr. LeCheminant had discussed the possibility of instituting a fine. As the HOA, the Board has the purview to issue a violation and a fine for violating any rule and regulation they establish within reason.

Mr. LeCheminant clarified that the sign requiring chains is primarily directed to those who only use their property on weekends, renters, contractors, etc. Mr. Deaver asked if the fine was for not putting on chains or for getting stuck and not having chains. Mr. Tyler thought it should be the latter. Ms. Parker stated that she has always used Blizzak tires and they work great. She asked if she would be fined for not having chains if she were to get stuck. Mr. Tyler stated that he also uses Blizzaks. He agreed that they work so well that chains are not needed. He thought a fine ordinance could specifically say, "snow specific tires or chains and four-wheel drive." Ms. Parker liked the signs from a clear sign communication standpoint.

Mr. Deaver suggested that they slightly shrink the graphic and add a line stating, "trailers require 4 x 4 and chains." Ms. Powell liked the sign as designed because it assumes trailers by saying 4 x 4 and chains required beyond this point. His concern was how to make the fine black and white enough to keep it from being an arbitrary decision. Mr. LeCheminant remarked that they would not have to impose a fine. He thought the threat of a fine might be enough to make people follow the rule. Mr. Tyler remarked that it might become an unenforceable ordinance, but language stating that a fine may be imposed shows that the HOA is serious about it.

Mr. Brown thought the homeowners are the ones who have the most influence on the other people who come up to the Ranch. He has a Thanksgiving party every year and they literally tell people that if they do not have Blizzaks to park at the bottom and he will pick them up. Owners who are building a house are the only ones who can communicate the rules to the contractors. He was unsure whether they could make it a homeowner driven concept, but it would be a challenge to force someone to do something they were not prepared to do.

The Board discussed placement of the signs.

Ms. Kreis requested that the motion include the full cost of the signs. Mr. Tyler thought it would be approximately \$500.

MOTION: Tom Deaver moved to purchase three signs up to \$200 per sign, and to place the order immediately so they could be paid from the 2015 Budget. Matt Brown seconded the motion.

Ms. Parker asked if there was money in the 2015 Budget for the signs. Ms. Kreis replied that \$500 was a diminimus amount that would not make or break the budget. She noted that the Board always planned to roll over the \$30,000. They were close now and they had already approved \$300 this evening for Jody to purchase chains for the truck. She asked if rolling over \$29,000 instead of \$30,000 would keep the Board from voting on the signs. The Board answered no.

Mr. Tyler called for a vote on the motion.

VOTE: The motion passed unanimously.

Mr. Jespersen asked if they should add language about fines. Mr. Tyler thought they should see whether the signs are effective first. If the problems continue they could revisit the issue.

Ms. Parker suggested adding a sign that shows the exact number of accidents that have occurred. It would let people know the actual number of people who have slid off the road this year and hopefully make them more cautious.

Mr. Tyler asked Mr. LeCheminant to work with Jody on mounting the signs

Board Member Attendance

Ms. Parker asked if the Board members would post whether or not they would be at the meeting a day before the scheduled monthly meeting. That would give them a heads up as to whether or not there would be a quorum. Ms. Kreis thought that would be helpful because she has to coordinate with Carol in advance of the meetings. In addition, Carol incurs printing costs when they meet. If the meeting is cancelled, Carol can set things up to vote on immediate items via email. Knowing ahead of time is a more efficient and productive way of communicating.

Mr. Tyler noted that his hockey team uses a program called Team snap that allows players to automatically update their status for the games. He thought something similar might work for the Board meetings. The suggestion was made to reply to the email that Mr. Tyler sends out requesting agenda items.

Mr. LeCheminant remarked that during the November meeting Mike raised the issue of an abandoned trailer and no one knew whose lot it was on. Mr. LeCheminant was on the Summit County website and he zoomed in on it. He had a printout of the trailer on the lot and he asked Ms. Kreis to give it to Carol.

### Election Results

Ms. Kreis noted that there were still several days left for votes to come in. As of today, 21% of the membership had voted. Out of that number, 85% voted for Tony Tyler, 57% voted for Honey Parker; 28% voted for Mike Olsen; 10% voted for Alan Powell; 12% voted for Tom Deaver; 11% voted for Bruce Hutchinson. She pointed out that the area reps are only voted on by those in their area. A few of the votes were write-ins.

Ms. Kreis congratulated those who won. She thought it was good to have so many incumbents with institutional knowledge remain on the Board. Mr. Tyler expressed regret that Mr. Hogdson would be leaving the Board. Mr. Hogdson stated that he seriously thought about running again, but he has other commitments that would make it difficult to remain on the Board. However, Bruce Hutchinson was taking his place and he was confident that Mr. Hutchinson would do a good job since he has prior board experience

### **Monthly Budget Review**

Ms. Kreis reviewed the profit and loss. She noted that they had collected 113% of the gross profit. Ms. Kreis referred to page 3 of the profit and loss which showed the total fixed expenses. Through December 15 the actual expenses were \$167,000. They had budgeted \$191,000. Mr. Tyler pointed out that the actual did not include the \$30,000 for the equipment fund reserve. Once the \$30,000 is transferred they would be over the



anticipated budget. Ms. Kreis thought it was important to look at the entire budget and the bottom line. She referred to page 4 which showed that they were under budget on variables at 72%. When that is netted out with the total budget, the actual number is 83%. Ms. Kreis worked the formula to show a net difference of \$46,000, pointing out that it did not include the current bills that would approve for payment this evening. Once the \$30,000 is transferred to the equipment reserve, the net difference would be \$16,000, which was close to the amount of the current bills. That was her reason for questioning the \$800 that was authorized for expenses in the two motions this evening.

Ms. Kreis reviewed the unpaid bills detail in the amount of \$16,841. She had reviewed the bills and found nothing out of the ordinary.

MOTION: Pat Kreis moved to approve the bills as outlined. Tony Tyler seconded the motion.

VOTE: The motion passed unanimously.

Ms. Kreis requested that the Board authorize Carol to be a one-time co-signer on the checks since Mr. Heath was not in attendance to co-sign the checks with Mr. Tyler this evening.

Ms. Kreis stated that she was sick and unable to attend the last meeting. She understood that the Board held a short meeting after the Annual Meeting and the bill from the accounting firm Stayner, Bates and Jensen was presented for payment. Ms. Kreis noted that the Board previously approved the bid and the purchase of the audit services. The amount that was approved was \$9,500. Ms. Kreis explained why she thought the Board should approve paying the bill prior to receiving the final report. It is a small firm and the auditors performed the work. Holding the payment might mean the difference as to whether their employees get paid. Ms. Kreis explained that after an accounting firm performs an audit, they cannot issue it formally until the Board signs off on a rep letter where the HOA represents that it was their accounting data. When she and Mr. Tyler reviewed the rep letter they felt the language was broad. It said that Mr. Tyler should sign representing that the accounting data was from the Board Management. She also had concerns because she was not treasurer in the accounting years that were audited, and she did not have first-hand knowledge of what transpired in those accounting years. Ms. Kreis stated that she and Mr. Tyler shared that information with the attorney, and he made minor changes to the rep letter. It was sent back to the accounting firm, and while they understood their points, the change that the attorney made was to change the language so it was not the Board, but rather the Association representing that the accounting data belongs to the Association. When the accounting firm looked at that change they could not allow it. The firm has a

standardized form letter that must be used because the firm has a peer review in order to keep its CPA status. They thought the changes to the letter were too broad and they needed the Board to approve the rep letter and not the whole Association.

Ms. Kreis stated that she deals with this all the time in her profession and she believed they were close to a resolution. In her opinion, the issue could be resolved. Given that work has been performed, three things remain. Finalize the rep letter and have the Board sign it; the accounting firm will issue a cover letter that goes on top of the audit report; the accounting firm will issue the cover letter and the audit report to the Board formally so it can be posted on the website. Ms. Kreis stated that given that the \$9,500 was approved in 2015, and that the work was performed, she requested that the Board approve paying the bill.

Mr. Deaver pointed out that the accounting firm did the audit on good faith. Ms. Kreis agreed. She has worked with this firm in the past and she believed they gave Pine Meadow a really good deal in part because of her ongoing relationship and because they would like Ranch business in the future.

MOTION: Tony Tyler moved to pay the invoice from Stayner, Bates and Jensen in the full amount of \$9,550. Tom Deaver seconded the motion.

Ms. Kreis asked the Board to discuss which line item the expense should be taken from. Mr. Tyler thought it should come out of the reserve because it was not a budgeted line item. He stated that it could also come out of the operating budget because they had over-collected on impact fees. After further consideration, Mr. Tyler suggested that it be paid from the operating budget.

Mr. Tyler called for a vote on the motion.

VOTE: The motion passed unanimously.

Mr. Tyler had emailed Mr. Barnes regarding the rep letter and Mr. Barnes responded. He was meeting Mr. Barnes at Summit County the next day because of the tax appeal and Mr. Barnes would give him the letter.

Mr. Tyler stated that Ms. Kreis had spent a considerable amount of time coordinating the audit and she had done a fantastic job. He appreciated her efforts. Ms. Kreis credited Carol for making her job easier. Carol also deserved credit for her involvement working with the auditors.

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The meeting of the Pine Meadow Owners Association Board adjourned at 7:52 p.m.

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