

PINE MEADOW RANCH OWNERS ASSOCIATION
PARK LIBRARY
TAYLORSVILLE, UT

MARCH 24, 2009

In Attendance: Hutch Foster, Dan Heath, Bob Burdette, Scott Clausen, George Ramjoue, Bruce Hutchinson, Duane Yamashiro

Ex Officio: Jody Robinson

Amy Jackson and Jen Kanzler arrived later in the meeting.

Guests: Brittani Oliver, Valerie Albert

Hutch Foster called the meeting to order at 6:33 p.m.

Approval of Minutes

Bruce Hutchinson corrected the last sentence on page 8 to indicate that it was by Duane Yamashiro and not him who made the comment. Mr. Yamashiro concurred and noted that the sentence itself was incorrect. He corrected the sentence to read, "Duane Yamashiro stated that he drives by that house every day and in his opinion they are **not** good neighbors".

MOTION: Bruce Hutchinson moved to ACCEPT the minutes of February 24, 2009 as corrected. Duane Yamashiro seconded the motion

VOTE: The motion passed unanimously.

Owner/Visitor Open Forum

Mr. Foster stated that Brittani Oliver had contacted him regarding access to a piece of land north of Pine Meadow Ranch.

Ms. Oliver presented a map of the lots to orient the Board members to the location of her Lot SS-140-12, which is a six acre parcel with no cabin. Ms. Oliver stated that she purchased the property from Barbara Kemp and has been using Pine Meadow roads to access the property. She was asking for official written approval from the Homeowners Association so she would have legal permission to continue using the road.

Mr. Hutchinson was unsure if the Board could give legal permission because it is public access. Mr. Foster believed that most of the roads have an existing historic right-of-way. He did not think there was any question about Ms. Oliver's legal right to have access to the roads. However, he was concerned about the switchback that goes up to the Moses' cabin because that is not a platted Ranch road. Ms. Oliver remarked that the Moses' and two other property owners all use that road and she

understood that it was not Pine Meadow land. Mr. Foster stated that he would need to do some research on that matter.

Mr. Foster stated that there is not a right-of-way issue for using Pine Meadow roads, which is why the HOA requests that landowners outside of Pine Meadows contribute at the same rate as property owners inside of Pine Meadows.

The Board discussed right-of-way issues. Mr. Hutchinson suggested that Ms. Oliver look into causes that may require legal permission for use of the prescriptive easement. Dan Heath remarked that he had been told that the road was actually cut as a fire exit. Mr. Oliver stated that she had a letter indicating that the road was cut for Ralph Moses to access his cabin. Mr. Heath believed Ralph Moses would know if there is documentation.

ECC Plan Review

Mr. Foster commented on the matter discussed at the last meeting regarding Matt Brown. He understood from Mr. Brown that Scot Erickson has the document showing the colors. Mr. Foster stated that he had visited the property and was not personally offended by the colors. Since Mr. Erickson was not present this evening, Mr. Foster held further discussion until Mr. Erickson provides the signed construction agreement.

Mr. Hutchinson asked George Ramjoue if he had a letter regarding his neighbor's cabin. Mr. Ramjoue stated that his neighbor obtained permission to build before he was on the Board; therefore, he did not have any documentation. Mr. Ramjoue asked if the issue was the type of siding or the color. The Board members replied that it was the color. Mr. Foster believed the colors were gray and dark green. It may be an unattractive color package but he was not convinced it was outside the boundaries of what is allowed. Mr. Ramjoue agreed. He did not like it personally, but was unsure if the Board could do anything because it is a matter of interpretation.

Mr. Burdette suggested that before they take on a battle with a lot owner, the Board should decide whether or not they have authority to dictate colors. Mr. Foster stated that the attorney, Ted Barnes, has looked at the existing CC&R's to see if they have any latitude to create a binding document related to architectural issues.

Mr. Ramjoue stated that at some point in time someone thought the Board did have authority; otherwise, where would they get the idea that they could control color. Mr. Burdette pointed out that the Board had told Hutch what he could not put on his exterior, but then allowed it the next year. Mr. Ramjoue believed that design and color guidelines must be written down somewhere. Mr. Foster stated that six years ago when he purchased on the Ranch, he requested such a document. He was told it existed but it was never provided. He has yet to see such a document. Mr. Foster

remarked that Dan Heath and Scot Erickson have a distinct memory of seeing guidelines on paper, but it was described to Mr. Foster as a list of suggestions. Mr. Foster questioned whether there has ever been an enforceable document regarding building specifications. The suggestion was made to speak to Scott Boyle, the previous HOA president, before asking the attorney to do a lot of expensive research. Mr. Foster noted that they recently went through the entire Ranch archives and the document was never found. He was willing to talk to Mr. Boyle but he was not optimistic. Mr. Ramjoue offered to contact Mr. Boyle. Mr. Heath suggested that they contact Merrill Nielsen, the previous Ranch Manager, since he was the one who drafted the document. Mr. Foster asked Mr. Ramjoue to pursue contact with Scott Boyle and Merrill Nielsen and report back to the Board.

Water Board Update

Scott Clausen, the new Water Board representative, stated that he had failed to attend the Water Board meeting the previous week. Mr. Foster suggested that Mr. Clausen contact Eric Cylvick or Carol Steedman to obtain a schedule of the Water Board meetings.

Mr. Robinson worked with Brody Blonquist from the Water Company and reported that an 8 inch water line was repaired.

Ranch Manager's Report

Jody Robinson reported that the front blade of the grader was broken and needed to be replaced. The grader is still being used mostly for snow removal and water control. Mr. Foster noted that the roads were crowned and dry from Oil Well to the gravel pit and most of the smaller roads were also bladed off and dry. Unfortunately those roads are a mud pit again. He thought Mr. Robinson had done a nice job cutting through the snow bank to allow the water to run out into the bar ditches. That process helped the roads dry faster than usual.

Mr. Robinson stated that the grader needs repairs and he would have to call Wheeler Machinery to work on the turntables. Mr. Foster recalled that the grader repair was discussed last summer. Mr. Robinson stated that he would also need to purchase a cutting edge for the main blade. The edge of the front blade is wearing out but he can turn that blade over for now. The shoes that the front blade sits on are wearing out and they will need to be replaced when he turns the blade. Otherwise, the grader is running fine.

Mr. Foster referred to a question at the last meeting about whether all the Ranch Roads would be opened by Memorial Day. Based on the weather, they will have to see what happens closer to Memorial Day. Mr. Foster stated that Mr. Robinson is watching the culverts. He is doing his best to maintain the drainage as much as possible, but they know some will plug, regardless.

Mr. Foster suggested that the Board begin thinking about the mag water schedule so it can be done prior to the busy part of the summer. Mr. Robinson stated that he is hoping to start in June this year. Mr. Foster anticipated an early and active weed control season and recommended getting supplies now.

Mr. Robinson reported that someone was coming up to look at the cracked seal that week. Mr. Burdette provided information on a company that does slurry seal.

Mr. Robinson commented on purchasing the dump truck and noted that the cost of the same truck he has talked about in the past has been reduced by \$2,000. The truck is a 2006, 1-ton, 4x4, Chevy and has 87,000 miles. Mr. Burdette believed the Ranch would put harder use on the truck in the next 10,000 miles than what it had in the first 87,000 since the work will be up and down hills and shorter runs with heavy loads. It was noted that the truck was previously owned by a company in Colorado.

Amy Jackson and Jen Kanzler arrived.

Mr. Foster asked about the cost of a sander to fit in the body of the dump truck. Mr. Robinson replied that it would be approximately \$4,000. They would also need to purchase a water tank with a sprayer on the back, as well as a blade setup for the front. Mr. Foster suggested that Mr. Robinson price out a whole package to get a more accurate cost.

Mr. Burdette stated that for such a large expenditure, he would like Mr. Robinson to bring an estimated cost to the Board for approval before he looks at making a purchase. Mr. Hutchinson suggested that Mr. Robinson request service and maintenance records on the truck in Colorado. Mr. Foster recommended that Mr. Robinson find out more about the truck in Colorado and at the same time keep looking for other trucks for sale. He suggested that Mr. Robinson email the Board with information or a link if he finds something that might slip away before the next Board meeting.

Mr. Robinson asked if he had authorization to have Wheeler Machinery work on the grader. Mr. Foster answered yes.

Old Business

Mr. Foster requested that the Board continue their previous discussion regarding short term rental property. He summarized that for the past four years the Ranch has battled with two properties in prominent locations on the Ranch who rent their houses on weekends and this has created a lot of parking, noise and trespass problems. Mr. Foster stated that in order to deal with parking, noise and trespass problems, Ted Barnes drafted a rule against short term rental problems that fit within the concepts of the CC&R's. In the ensuing three to four years, the Board has been unsuccessful in

stopping short term rentals; however, he felt they had improved the problems that pressured them to make that rule.

Mr. Foster recalled a lengthy discussion at the last meeting about whether the Board had taken the wrong approach and were reconsidering whether to ban short term rentals or revisit trying to enforce the existing rules from the CC&R's. The Board decided to hold a decision until this meeting.

Mr. Ramjoue understood that Ted Barnes found something in the CC&R's regarding commercial use. He noted that short term rental can be construed to be a commercial use and, therefore, would be prohibited. Mr. Foster did not have a copy of the CC&R's at hand and he did not recall that is what Mr. Barnes had addressed when he drafted the rule.

Mr. Burdette remarked that Dan Heath has sought to do short term rentals and the reason was discussed at the last meeting. He noted that when Mr. Heath was questioned as to why he would go against the Board ruling, he responded by saying he had the right to do it. Mr. Burdette felt it was an issue of whether or not the Board could legally stop someone from renting their property. He stated that the Board could prohibit nightly rentals by contract with a new property owner. Mr. Burdette stated that he would vote against making unfair rules that restrict one property owner and not restrict another.

Mr. Yamashiro was not in favor of adding additional rules. His main concern was safety and by enforcing the existing rules that should take care of any problems. Controlling parking, trespassing and noise would be safer ground.

Mr. Ramjoue believed the Board assumed they had the right to restrict short term rentals based on Ted Barnes' interpretation of the CC&R's. The suggestion was made that property owners who rent their property short term should pay more in dues for the extra people who use the roads and take up parking. Mr. Ramjoue agreed because it is a disproportionate use of the rental property.

The Board discussed rental properties and whether they could determine which properties are rentals. It was noted that most properties are advertised on the internet as rentals and the address is given. Mr. Foster stated that he struggles with this issue because they are made aware through rumor and innuendo that there are dozens of rental properties on the Ranch.

Jen Kanzler suggested that they have new property owners sign a form stating that they will not do short term rentals. That would be enforceable if an owner has agreed not to rent their property short term.

Mr. Foster stated that the next argument is whether or not it is fair to make a new owner sign an agreement not to rent short term, when his neighbor is able to do it because he built a year earlier.

Several of the Board members felt it would be fair. Mr. Heath stated that he was ashamed to say that he had not read the covenants word for word until he needed to research something for the Board. He felt the Board members would be amazed to find out what little power they have if they actually read the covenants. Mr. Heath suggested that the Board read the covenants thoroughly before they formulate regulations. He remarked that any regulation would be unenforceable if it takes away the basic rights guaranteed by the covenants, unless someone voluntarily gives up those rights.

Amy Jackson asked if the Board had this discussion before the rule was passed. Mr. Foster stated that before it was passed the Board discussed the frustration over two individual properties that were a major problem. They have not had an involved discussion about property rights and other property users on the Ranch who have quietly rented for many years.

Mr. Ramjoue believed the Board did have that discussion and the majority agreed that they did not want short-term rentals on the Ranch. Ted Barnes attended that meeting, explained their options and drew up an agreement. He did not believe their position was without foundation. Mr. Burdette stated that at the time of that discussion he was asked if he would sign that agreement and he answered no. He declared that he had no intention of using his property for short-term rentals but he did intend to trade properties with this friends. It was pointed out that trading property is a different situation because it is not a commercial enterprise. Mr. Burdette reiterated that personally he would not sign away his property right if he did not have to.

Ms. Jackson remarked that the CC&R's could be amended to address short-term rentals. Mr. Hutchinson noted that the CC&R's require a two-thirds majority of all property owners, which is a separate issue from the agreement. Mr. Burdette pointed out that the CC&R's can be amended once every twenty years. Mr. Foster remarked that the 20th year is this year. Mr. Heath clarified that the Board could amend the CC&R's, but the CC&R's specifically spells out the amendment process. Mr. Heath did not believe the CC&R's could be retroactive on people who purchased their property prior to the amendment. Mr. Foster believed the amended CC&R's would apply universally.

It was pointed out that the Ranch has Rules and Regulations in addition to the CC&R's. Mr. Foster noted that the short-term rental clause was added to the Rules and Regulations and the Rules and Regulations are based on the CC&R's. The CC&R's state that the ECC can create reasonable rules and regulations to enforce what is outlined in the CC&R's. Mr. Foster explained that Mr. Barnes' intent was to create a rule against short-term rentals and incorporate it into the Rules and Regulations as a way to preserve the Ranch environment under the CC&R's. Mr. Burdette stated that if half the Ranch was short-term rental and they all behaved similarly to the problem renters, the Ranch environment would be degraded.

Mr. Burdette read a section from a document called Uniform Rules and Regulations for the

Governments of Road Services, Parking Lots and Common Areas of Pine Meadow and Forest Meadow Ranch. He noted that the document was not dated but language at the bottom indicated that the document was passed and unanimously adopted this blank day of blank, 2001. Mr. Foster assumed Mr. Burdette was looking at the Short-Term Rentals of Cabins provision. He noted that it was incorrectly inserted as if it had been created when the rules and regulations were created. It should have been an amendment on that day with the Short Term Cabin Rentals.

Mr. Foster felt it was important to have the short-term rental discussion on a broader perspective than just the two problem properties. The question is whether or not the Board thinks the rule that was passed three or four years ago is fair to Ranch owners and if it was the appropriate way to address parking, noise and trespassing. Ms. Jackson thought they should put it to a vote with the homeowners. Mr. Foster stated that he spoke with Ted Barnes about doing that and Mr. Barnes is looking at the requirements for amending the CC&R's. If putting it out to the HOA is the appropriate approach, they should campaign for a true annual meeting. If they get a positive response from three-quarters of the owners, the Board could amend the CC&R's.

Mr. Heath understood that there are five sets of CC&R's recorded against different areas. If they ask the HOA for a vote, it is important that they use the correct CC&R's for that area. Mr. Foster explained that pre-SSD, five different areas were created at different times with their own CC&R's. He believed that when the SSD was disbanded and the current Pine Meadow Ranch Owners Association was created, the CC&R's were combined. Mr. Heath and Mr. Clausen disagreed because the covenants stand as recorded and run with the land.

The Board discussed ways to handle the parking problems associated with short term rentals and possible means for taking action. Mr. Foster felt the only authority the Board would have is to fine the property owner. Ms. Jackson suggested towing. Mr. Foster stated that unless the Board insures to be a tow company they would not dare touch someone's car. That is the reason they are writing a waiver for when Jody Robinson pulls people out of ditches. He noted that a tow company could be called but most do not like towing in that area and there is no motivation to come to the Ranch. Ms. Kanzler asked if fines could be added to the annual fee for that individual property owner. Bob Burdette explained the billing process Carol Steedman uses when fines have been imposed in the past.

Mr. Foster asked if the Board wanted to act on the existing rule against short term rentals. He pointed out that parking enforcement is an important issue that should be discussed; however, it was not an issue for discussion this evening.

MOTION: Duane Yamashiro made a motion to repeal the prohibition of short-term rentals.

Ms. Jackson wanted to know the reason behind the motion to repeal the prohibition.

Mr. Burdette did not believe the Board had the legal right to restrict short-term rentals. Mr. Foster thought it would be acceptable to make an announcement that the Board had created a policy to deal with a package of issues. They have since decided that it was ineffective and instead would like to address the base issues. Mr. Heath stated that if the Board wants a new policy, the policy should follow with the CC&R's as written or the CC&R's should be amended. Mr. Foster remarked that the principle of the short term rental is not the offense. It is the way renters abuse parking, trespassing and noise.

Mr. Foster called for a second on the motion. Bruce Hutchinson seconded the motion.

Many of the Board members expressed mixed feelings. Mr. Ramjoue felt it was premature to vote on a repeal without additional research. He would like someone to give an assessment of what powers they actually have as a Board. Mr. Foster stated that Ted Barnes believes the Board has the power to enforce short-term rentals if they are willing to take it to the bitter end. The language he wrote was in the spirit of the CC&R's and would be enforceable in court.

Ms. Jackson pointed out that no one was opposed to rentals and that the issue was properties that are rented on weekends or for one or two days. She noted that situations are different and they should break it down before they make a decision to repeal everything. A concern was expressed that repealing the prohibition entirely would open the flood gates.

Mr. Foster pointed out that rentals are already broken down into short-term and long-term. Rentals over 30 days have always been allowed. The rule that was added three years ago specifically addressed rentals under 30 days.

After further discussion, Mr. Foster called for a vote on the motion to repeal the rule concerning short-term cabin rentals.

VOTE: The motion failed with three in favor, three opposed, and three abstentions.

A request was made for this issue to come back to the Board for further consideration.

A suggestion was made to put the issue of short-term rentals on a ballot for the property owners to vote on and make it part of the CC&R's.

Mr. Ramjoue suggested that the Board develop a list of items, including building guidelines, that should be amended in the CC&R's. Ms. Jackson stated that the list could be posted on the internet so people have the opportunity to read it before voting in November.

Mr. Foster remarked that personally he did not like the rule prohibiting short-term rentals and in the

case of a tie he would have voted in favor of the motion to repeal and put it on the ballot for the entire community to vote.

Construction Projects on the Ranch.

Mr. Foster reiterated the question of colors on two properties and suggested that the Board table the discussion until Scot Erickson can bring the information for the next meeting.

Mr. Foster made a note to contact Mike Wood and John on Crowloop Road.

New Business

Mr. Foster reported on a call he received from Richard Seely, Lot D-84, Area 7. Apparently a front end loader operator decided to open the road to D-75 and in doing so piled all the snow that was removed in an 8-foot tall bank across Elk Road. Mr. Seely is now unable to cross with his CAT. Mr. Foster asked someone to identify the lot and through Carol make an effort to contact the owner and explain that he needs to quickly resolve the problem. He suggested that they also assess for road damage and if they need to borrow the Water Company's backhoe then they will back charge. Dan Heath and Amy Jackson would follow up on the matter. Carol can verify the owner and provide contact information.

Monthly Budget Review

Mr. Burdette reported that there was \$131,000 in the checking account. If Jody finds a truck he would like to purchase, they have money available without making a transfer. He noted that \$137,000 of the 2009 annual assessments have been collected to date. Carol Steedman with KGC Associates, reported that \$195,000 was billed, therefore \$137,000 is approximately 70%. There is \$60,000 left to collect. Carol noted that the invoices were usually sent in February, but the Board has requested that they be sent out by the first of the year. The 2009 invoices were sent the last week in January. She stated that 14% of the assessments has been collected through the use of credit cards. People are given 30 days to pay or 60 days with a \$25 past due fee. After 60 days, interest begins accruing. Approximately thirty people make quarterly payments and those statements will be sent out the end of March. The suggestion was made to set up a link on line where people can pay. Carol was unsure of the cost but noted that QuickBooks is already set up for that whenever the Board makes that decision.

Mr. Burdette reviewed the unpaid bills totaling \$8,188.

MOTION: Mr. Burdette made a motion to pay all the expenses in the amount of \$8,188. Scott Clausen seconded the motion.

VOTE: The motion passed unanimously.

Carol reported that Mr. Rouse was asking that the website provide a specific project list. The check he sent was a standard contribution for those property owners outside the Ranch. Carol pointed out that he has been one of the biggest contributors for Tollgate for the past several years. Mr. Foster noted that they would be working on Lower Tollgate this year but they do not have a specific project list yet. He would respond to Mr. Rouse.

Mr. Burdette noted that he had budgeted \$19,000 in asphalt repair so they should be able to patch holes and fix cracked seals.

Area Representative Issues

There was no comment.

Monthly Meetings

Mr. Foster noted that the next monthly meeting would be April 28th, 6:30 p.m. at Trailside. If winter ends and the roads dry out, they may look to moving the meetings to the Ranch for the Spring, Summer and early Fall.

The meeting of the Pine Meadow Ranch Owners Association adjourned at 8:30 p.m.
