

WILLOW CREEK PASS VILLAGE ASSOCIATION
ANNUAL MEETING
AUGUST 21, 2010

The annual meeting of the Willow Creek Pass Village Association (WCPVA) was called to order by the President, Lanny Mack at 10:15am at the North Routt Fire District Station. Board members present were Pat Aiello, class C; David Kliewer, class D; Ron Davies, Class A and Sue and Hans Hochreiter of Double H Management.

Financials - Lanny reviewed the Balance Sheet and Profit & Loss statement with the members. Association is on track to end year with \$50,000 reserve, as was agreed to at last year's meeting, currently \$67,000 in the bank with \$30,000 in accounts receivable. Board reported on collection actions, with foreclosure procedure begun on 6 owners. Attorney fees are billed to delinquent accounts and collected when the past due amounts are collected, or at sheriff sale. An owner asked if we could get an attorney on contingent basis. Lanny explained there wasn't interest in this from attorneys in the past, that our current representation is a 300 person firm. Board feels our attorney has been very good for our Association.

Quorum - Hans reported that a quorum needed for the meeting had been achieved. Owners signed in exceeded 50 and represented votes in excess of 250, as required by the bylaws.

Budget - 2011 Budget was discussed. Lanny explained that given the Association does not have any depreciating assets, such as buildings, swimming pools, etc, the need for reserve is mostly budget contingencies such as project overruns, unpaid accounts, and unforeseen legal issues. The proposed budget is based on increasing reserve \$20,000, and the Board is recommending increasing the discount for early payments to 30%.

Motion: Rusty Baker moved to accept the 2011 Budget. Bill Pass 2nd. All approve.

Minutes - The minutes for 2007 and 2008 could not be approved in the past as there wasn't a quorum present. 2007 was reviewed in 2008 and 2008 were reviewed in 2009. 2007, 2008 and 2009 have all been on the web site as Unapproved Drafts.

Motions: Ron Burns moved to accept 2007 minutes. Frank Majors 2nd. All approve.

Rusty Baker moved to accept 2008 minutes. Dave Kliewer 2nd. All approve.

Frank Majors moved to accept 2009 minutes. Mike Baldwin 2nd. All approve.

School District Parcels - Board explained that the Routt County school district owns two, 21 acre parcels of land in the subdivision. They want to sell these for residential use, with potentially one house on each parcel. Lanny explained that the covenants restrict the use of these parcels, and specify they can only be used "for the enjoyment and protection of all the owners of record," such as a school, fire station or recreational area. Lanny further explained that the subdivision covenants were created in 1971 and recorded March 1972. The two parcels were deeded over to the school district 30 days later in April 1972. Therefore, the parcels are part of the Association greenbelt, as defined by the covenants, and as such residential use is prohibited.. The board cannot override the covenants of the Association, nor can the covenants

be changed at an annual meeting. In order to change this restriction, it would require a majority vote of all property owners, as well as approval with Routt County Commissioners. Lanny suggested the community could do one of the following: 1) do nothing, and the parcels would remain restricted but privately owned. This would restrict community access, trails, ,etc, but also would prohibit residential use. 2) solicit all members for a covenant change which is costly and time consuming, or 3) HOA could buy the parcels which would make them community greenbelt parcels. They are currently listed for \$135,000 each, based on being residential properties.

Dave Moss spoke as a proponent of the school district. He said the school district received a 3.2 million Excellent Schools Best Grant from the state to build a new school next to the preschool. The school district added \$100,000 to this. He felt strongly the association should work with the school district for a resolution, as the sale would help North Routt schools. He questioned the applicability of the covenants, given that the original developer never fully transferred the properties.. Lanny said multiple attorneys have reviewed this, and the covenants were recorded in 1972, and are a restriction of title. The attorneys have communicated to the Board that the covenants do apply regardless of who owns the property.

Motion: Dave Hessell moved to direct the board to investigate purchase of the parcels, to establish cost/terms proposal.. Dave Moss 2nd.

One member spoke in opposition, not wanting to approve purchase without knowing final terms. Board explained the motion is only for direction, not an approval of purchase. Any final purchase would require vote of the membership.

Motion passed with two opposed.

The board will research the possibility of buying these parcels and report to the membership by next annual meeting.

Black Horse Drive, Parcel C - Lanny explained the owners of two lots in filing 4, on Black Horse Drive, submitted a proposed lot consolidation which includes these two lots, plus nearly 50 acres of privately owned greenbelt parcels, along with a nearly mile-long driveway easement across greenbelt to access their property. The board denied the request, based on the same restriction as the school district issue, namely a driveway across greenbelt parcels is prohibited. Subsequently, the owners have sent a letter stating they may file a lawsuit to remove the property from the restrictions.

Black Horse Drive is the platted access to serve these lots, however there is a gap in the access, as it was planned to cross forest service land and approval was never obtained by the original developer. In order for Black Horse drive to be constructed, it must cross a section of Forest Service land. The forest service land is now controlled by federal road-less rules. The board considers a potential land swap with the forest service as one solution that would allow for Black Horse to be connected, while maintaining road-less acreage. If that idea fails the board could pursue getting access across forest service land through land use permit.

One potential candidate of land for the swap would be using a portion of greenbelt parcel C., which is owned by Routt County. Lanny has talked to County Planning and the County Commissioners regarding Parcel C. They appear to be amenable to doing a land swap with the forest service with this parcel and/or transferring title of parcel C to the Association. Tom Sullivan, County Mgr is reviewing this. Members asked how this impacts the association, who the one owner is, and why is the Association doing this and not the developer. Lanny explained that there would be no cost for this to the Association, any significant cost would be assessed to the property owners in filing 4. Also, there is no requirement for the Association to do this, but as a response to the threat of legal action resulting in loss of greenbelt, it is prudent to investigate option for access. Also, we collect dues from property owners in filing 4, and the greenbelt issue and road access is a community responsibility. Dean Moss, lot 72, introduced himself and said he worked for the BLM in Meeker and dealt with these exchanges. There's a special land use permit that's given by the Forest Service. Lanny said they will investigate this but if there's any other way of obtaining access the USFS probably will not agree. The land swap would be the better way to go, as it maintains USFS road-less acreage, but can take years.

Covenant Enforcement - Tim Stone is the chair of the ECC but could not attend today's meeting. Lanny told the members that when everybody buys at WC they must abide by the covenants as well as pay dues, assessments. At last year's meeting the owners said they wanted the ECC to vigorously pursue covenant violations, and the Board has received emails requesting general enforcement, not just responding to complaints. The Board has sent letters and about 75% cooperate and take care of the issue. Some others argue and a few admit to being in violation but don't resolve the issue. The board gives owners 30 days to fix the problems. If they don't contact the board or fix the problem then the fines can begin. These fines are usually waived if the owner contacts the board. Lanny said some people feel that the Association cannot collect these fines. He explained that state law allows for foreclosure on unpaid dues but not fines. However, if there is a foreclosure on the dues and there are unpaid fines for the owner these fines can be included with the foreclosure. The court upholds these fines. Also, any unpaid fines can be collected at closing. Attorneys have provided court cases where HOAs have collected over \$30,000 in daily fines at closing of a property.

Stan Wagoner spoke to the members complaining that he received a \$9,000 fine from the ECC, stating he was fined for a fence he built. He has a fence and two fuel tanks that must be buried or enclosed and 12 snowmobiles on his property. He has 2 Akita's that have been vicious towards other dogs and made a large enclosure on his property. He complained that the HOA put a fence on the back of his property.

Lanny responded that the board enforces the covenants. Stan built the fence without ECC approval, as required by the covenants. His dogs must be contained but he's in violation of the covenants. There is no stipulation that owners of vicious dogs do not have to abide by the covenants. Lanny explained he was not fined \$9000 for the fence, but for refusing to address the issue for more than a year. Fines are \$25/day until the problem is resolved. Stan never did anything to address these issues. The fine has been for the last year, after giving 6 months to address the problems. Stan said his snowmobiles are for a business but Lanny stated that the covenants require strictly for residential use only, and the 12 snowmobiles were for business use. When Stan moved in he tore up his land with the snowmobiles, equipment, etc. Stan admitted it

was a mess. Pat Aiello said it makes no difference if an owner has dogs, snowmobiles etc. However, all owners must abide by the covenants. The owner needs to figure out how to contain his dogs without fences, etc. Rusty Baker asked about the size of the tanks. Stan said a 500 gallon propane and 500 gallon diesel. Rusty stated that the diesel needs protection around it to prevent contamination of the ground water supply.

Dave Kliewer told the members that there is one special page on the web site that speaks to the covenants. Some owners spoke and whereas, they agreed that the covenants should be upheld they asked to not have one zealous board member going after these covenant violations. Lanny said it is a difficult balance and asked what the membership wanted the ECC to do. Members agreed that the covenants must be upheld and enforced. Lanny explained that there is one board member as the liaison to the ECC.

Pine Beetle Infestation Projects - Lanny explained that Susan Marshall chaired this project but was not in attendance. John Twitchell spoke as a Forest Service agent. He said Mark Cahur is coordinating this project and should start by 9/15. Since it is a roadless project they are having problems. The area of concern is off of Golden Tide. If the project doesn't start by 9/15 it will be next year. Bob Hulton expressed concern about the impact on subdivision roads. John explained that the forest service contracts with independent contractors and they pay for the roads impact. John also said he met with the BLM and that possibly next spring they'll have a proposal for the subdivision to look at regarding dead trees on other side of the subdivision. Lanny said that if anyone had questions about the project to please contact Susan Marshall. One member asked about dead trees on private property. Lanny referred to the minutes two years ago that spoke to defensible space and removal of trees.

By-law revisions –

- 1) Quorum-This revision would allow for the 50 people needed to include proxies.
Motion: Dave Moss moves to accept this revision. Frank Major 2nd. Motion passed with one opposed vote.

- 2) Date of Mtg-By laws state meeting must be in July or August. Revision would allow flexibility to have annual meeting.
Motion: Pat Aiello moved to improve the resolution. Connie Myers 2nd. All approve.

Next year's meeting date:

Motion: Dennis Lodwick moves to have the 1st Saturday after Labor Day. Mike Baldwin 2nd. All approve.

Election of Board of Directors:

Nominations from the floor were for Dennis Lodwick, Stan Wagoner and Rusty Baker. Only two positions were contested. They are as follows.

The Classes and term limits needed:

A-3 year Tim Stone, Dennis Lodwick

A-2 year Ron Davies
B-2 year Dave Kliewer
C-3 year Pat Aiello
At Large-1 year Frank Major
At Large-1 year Stan Wagoner, Rusty Baker
D- 3 year Bill Pass

The votes were tabulated by Sue and Hans of Double H. Pat Aiello announced that Tim Stone and Rusty Baker were elected.

Meeting adjourned at 12:25pm

Respectfully submitted,

Sue Hochreiter
Business Mgr.