

**WHISPERING PINES RANCH ASSOCIATION  
ANNUAL HOMEOWNER MEETING  
October 29, 2011  
Dillon, Colorado**

**I. CALL TO ORDER**

The meeting was called to order at 9:10 a.m.

Board members present were:

Scarlett Lewark, President, 28LC  
Dave Hammer, Vice President, 64HC  
Bryan Stiefvater, 86CV

Virginia Parks, Treasurer, 15GP  
Jonathan Lerner, Secretary, 50LC

Owners present were:

Sharon Farmer, 65CV  
Anita and Helmut Singer, 49GP  
Nicolette Loth and James Fisher, 21LC  
Theodore Sokolis, 41LC  
Joe and Ginger Wray, 20MC  
Scott Whitten, 51MD  
George Raynor, 14RT  
William Sander, 34SP  
Renee Apfelbeck, 44SV

Sue Thibault, 29GP  
James and Christine Swoll, 45HC  
Edwin Orlosky, 36LC  
Jonathan Lerner, 50LC  
Geoff Darst, 40MD  
David Osbourne, 91MD  
Carol Peoples, 25SP  
Jeff Walters, 94SP  
Asterios Ginis, 61SV

Representing Summit Resort Group were Peter Schutz, Kevin Lovett and Deb Borel. Erika Krainz of Summit Management Resources was recording secretary.

**II. PROOF OF NOTICE**

Notice of the meeting was sent September 29, 2011 in accordance with the Bylaws. A copy was included in the meeting packet.

**III. DETERMINATION OF QUORUM**

With 32 properties represented in person and 23 by proxy a quorum was reached.

**IV. APPROVE PREVIOUS MEETING MINUTES**

Geoff Darst made a motion to approve the minutes of the October 30, 2010 Annual Meeting as presented. James Swoll seconded and the motion carried.

**V. DEVELOPER REPORT**

Dave Hammer said there had been a reasonable amount of real estate activity in homes under \$700,000. He released a plan for one house and had some good response and will release another plan for a 2,100 square foot house in the mid-\$600,000 price range shortly. There has only been one offer recently and no lot sales.

## **VI. PRESIDENT'S REPORT**

Scarlett Lewark reviewed Board activities over the past year.

1. The Board solicited new bids for property management services and selected Summit Resort Group. The Board has a great working relationship with them.
2. Neils Lunceford has continued to provide landscaping services. They helped to reduce the water charges by repairing leaks.
3. The Board worked on the road issues and the short-term rental policy.
4. It has been difficult to keep community activities such as Whispering Corks going. She welcomed recommendations or thoughts for other social activities for owners.
5. The Architectural Review Committee has reviewed a number of upgrades, painting projects and new construction proposals.

Scarlett thanked the Board for the time they have spent on Association issues. The Board was recognized by the membership.

## **VII. FINANCIAL REPORT**

### *A. Year-to-Date as of August 31, 2011*

Kevin Lovett reported that as of August 31, 2011 the Association balances were \$25,085 in Operating, \$55,379 in Reserves, \$5,261 in Alpine Bank Retainer and \$12,020 in Alpine Bank Compliance.

The Profit & Loss Statement reflected \$45,445 of actual expenditures against a budget of \$61,071. Some of the savings were due to the timing of the final landscaping payments. Legal expenses were over budget due to legal work on the policies and short-term rental issue.

### *B. 2012 Budget*

The 2012 Budget as written includes no overall change to dues. Areas of change within the budget included:

1. Legal and Professional - \$500 increase.
2. HOA State Registration Fee - \$25 increase for state requirement.
3. Insurance - \$350 increase.
4. Management Fees - \$4,480 decrease.
5. Electric – This account is not budgeted as there is no power being used to light the sign. There was a solar system to light the sign but the batteries froze repeatedly. There may be new technology for solar that will function in the cold weather. The Board will revisit this issue in the spring.
6. Landscape Improvements - \$4,000 increase.

An owner questioned the landscaping expense for Neils Lunceford. Virginia Parks explained that the landscaping contract was approximately \$19,000 and the rest of the \$27,000 budget was for other work, such as fence repair and tree removal and irrigation system repair. It appears that water will be significantly under budget this year and Neils Lunceford has saved the Association at least \$3,000 annually. The Landscaping Committee appears to be pleased with the service being provided.

Nicolette Loth, a member of the Landscaping Committee, commented that there were some mowing problems. There are rocks along the sides of the roads so the landscaping company has to use weed-eaters instead of mowers. The Committee will address this issue. They would like to add protective collars around the trees and mulch around the bases. The Owner Work Days have not been very successful so they have to rely on the landscaping company to do the work.

Joe Wray made a motion to approve the 2012 Budget as presented. Scott Whitten seconded and the motion carried.

## **VIII. MANAGING AGENT'S REPORT**

Kevin Lovett thanked the Board and owners for their support. He encouraged owners to visit the Association website.

### **A. Completed Items**

1. Repaired the split rail fence.
2. Investigated sign lighting and will revisit solar power options in the spring.
3. Installed a slide.
4. Repaired/replaced signs on Montane Court and Telluride.
5. Inspected trees for pine beetle infestation and removed infested trees.
6. Updated required policies.

An owner commented that the post by the upper mailbox that used to have a speed limit sign needed to be removed.

## **IX. OLD BUSINESS**

Dave Hammer said last November the County Commissioners signed a settlement agreement for the roads, subject to minor revisions. The plan was to meet on site last May to address two issues with two sections of Canyon View and Habitat Court. In the interim, the County cut staff and no one was prepared for the meeting in May. The ex-County attorney agreed to do some pro bono work for the Association on the underlying agreement since it was drafted while he was the County attorney. Dave walked the property with the County engineer in August and was under the impression the project could be done this year. The County was supposed to draft exhibits for the agreement but then asked Dave to do them. The County is no longer threatening to stop plow service and has indicated that they will budget some money for repairs and rebuilding the main road as part of the agreement. Road management and maintenance are also part of the agreement. Dave has agreed to pave and finish the balance of the Telluride loop. The homeowners Association will contract for the required repairs on the side roads and the upper portion of Whispering Pines Road. All work is subject to a final walkthrough in the spring and signing of the final agreements.

An owner asked if there was work scheduled for the main road. Dave responded that the County will try to allocate funds but they are dealing with severe budget cuts. Their first choice would be to refund a small amount of the Federal tax money and let the Association take over all sections as private roads.

There is a sewer drain that is protruding on Mule Deer. Dave will do a temporary repair for the winter next week and a permanent repair will be done in the spring. An owner commented that the condition of the roads was affecting resale's.

Scarlett Lewark said the County tried to sell the Board on a Local Improvement District but the Board determined this was not a good idea. The County was originally demanding that the roads meet standards that do not exist anywhere else and would cost the Association \$1.5 million. An agreement was negotiated to get the County to take responsibility for Whispering Pines Ranch Road as well as the side streets. The Association will need to make a number of repairs before the County will take them over.

Scarlett Lewark said there would be a Special Assessment for the repair of the side roads in early spring for \$1,000 – 2,000 per lot. The Board will look at financing with a local bank. It is hoped that a payment plan with two or three installments can be established for any interested owners. The final cost is not yet known since the repair bids have not been finalized and the cost of asphalt could change.

An owner asked if it was possible to purchase asphalt futures. Dave Hammer did not know. He explained that LG Everist has the monopoly on asphalt in Summit County and charges about twice as much as Denver suppliers. There are a couple of Denver companies interested in bidding on the project that would buy the asphalt in Denver and truck it up.

An owner asked why this was an owner, not developer, issue. It was explained that Gallipo, the original developer, was responsible for the majority of the roads, which are now 13 years old. Dave Hammer is only responsible for the three roads he built.

An owner commented that the Board should have informed owners sooner of the potential for a Special Assessment, and that dues should be increased to build the Reserve balance to cover these types of issues.

Dave Hammer said this issue was discussed at last year's meeting. The Board has looked at options for financing and there are some Reserve funds that can be used to start the work. An owner recommended sending a clear communication to the owners regarding the Special Assessment.

An owner asked if there was liability for the Association if it makes repairs to potholes. He was concerned about setting a precedent for the County not to repair the roads. Dave Hammer recommended repeated phone calls to the County regarding road repairs. Virginia Parks suggested establishing a "Pothole Committee" to provide regular contact with the County when repair issues are noticed.

## **X. NEW BUSINESS**

### **A. *Amendments to Governing Documents***

Kevin Lovett said there had been discussion about amending the Declarations to clarify the sections pertaining to short-term rentals. This would require approval of 67% of the membership. Two attorneys have reviewed the Declarations and feel that while the

original intent of the Declarations was to prohibit short term rentals (less than 30 days), clarity could be added to eliminate wrongful interpretation. The attorney indicated that if the owners approved an amendment to the Declarations, there would be no grandfathering, whereas amending the Bylaws would not preclude grandfathering.

Joe Wray made a motion to proceed with revision of the Declarations to clarify the prohibition of short-term rentals and any other items as needed. Jonathan Lerner seconded. Virginia Parks noted that the cost for the legal work for the amendments was estimated to be around \$5,000. She said two other areas identified by the attorney for revisions related to the definition of a family and noxious weeds.

An owner asked how the new regulations would be enforced. This issue would need to be discussed with the attorney. Fines would need to be higher than the amount of rental revenue being generated to be an effective deterrent.

A motion was made to direct the Board to amend the Bylaws to address the ambiguous language regarding the prohibition of short-term rentals. The motion was seconded. In discussion, the majority of the attending membership expressed disapproval with the owner who is currently renting short-term and they were upset that Association legal funds are being spent to enforce the intent of the Declaration. The motion carried.

#### **XI. ELECTION OF DIRECTORS**

The terms of Scarlett Lewark and Jonathan Lerner expired. Scarlett Lewark indicated she would not be running for a Board seat again. Jonathan Lerner was willing to run again. Geoff Darst nominated Scott Whitten. James Swoll nominated Jonathan Lerner. A motion was made to close nominations. The motion was seconded and carried.

A motion was made to elect Jonathan Lerner and Scott Whitten by acclamation. Christine Swoll seconded and the motion carried.

#### **XII. SET NEXT MEETING DATE**

The next Annual Meeting was set for Saturday, October 27, 2012.

#### **XIII. INNOVATIVE ENERGY PRESENTATION**

A representative from Innovative Energy provided a presentation on solar options. They can now offer leased solar electric equipment in addition to direct purchase. They lease their equipment from Sunpower; they provide the highest efficiency equipment that meets local building code. Owners can pay monthly, or prepay up front. The lease is transferable. The lease agreement is 20 years per a requirement from Xcel but it can be bought out after six years.

Another new option for owners is to invest in a solar garden. Two potential locations are being explored in Summit County for installation of solar panels. The power generated can be sold to anyone in the County.

#### **XIV. ADJOURNMENT**

The meeting was adjourned 11:10 a.m.

Approved By: \_\_\_\_\_ Date: \_\_\_\_\_  
Board Member Signature