

RECORD OF PROCEEDINGS

EAGLE PINES HOMEOWNERS ASSOCIATION

December 30, 2009

A regular meeting of the membership of the Eagle Pines Homeowners Association, in the County of Pitkin, State of Colorado, was held on Tuesday, December 30, 2009 at 3:00 p.m. at the home of Julie & Jeff Wooley at 210 Eagle Pines Dr., Aspen, Colorado with the following people present:

Vincent Santucci, President
Julie Wooley, Vice President
Bill Smithburg, Treasurer
Debbie McNamara, Secretary

Gary Beach, Association Manager; Matthew Shmigelsky, Association Administrator; Doug Stuart; Maria Smithburg; Jeff Wooley; Elaine Santucci; Mike McNamara; John Devine on behalf of the Whipples; Christopher Bryan attorney for the Association

- Call to Order Dir. Santucci called the meeting to order at 3:20 p.m. and determined that a quorum of Directors was present.
- Approval of
Agenda Dir. Smithburg moved, and Dir. Julie Wooley seconded, to approve the meeting agenda as presented. The motion passed unanimously by voice vote.
- Proxy The Homeowner's Association is in receipt of a proxy naming Mr. Devine as authorized representative to vote its votes relating to all matters on its behalf.
- Approval of Prior
Meeting Minutes A brief discussion was held on the prior meeting minutes.
- Motion: Dir. Santucci moved, and Dir. McNamara seconded, to approve the meeting minutes from December 30, 2008. The motion passed unanimously by voice vote.
- Resolution 2009-1 Mr. Beach gave a brief synopsis of Resolution 2009-1 IRS ruling 70-604 regarding excess dues carried forward and acceptable uses for surplus Homeowners Association assessments. Mr. Beach stated that in order to prevent these funds from being taxed, surplus assessments must be either; a) refunded to the members; b) used to lower next year's assessments or cover increased costs; or c) placed into reserves for capital projects or future capital expenditures. A brief discussion ensued on the impacts of the resolution and the appropriateness of such a resolution.
- Motion: Dir. Smithburg moved, and Dir. McNamara seconded, to approve Resolution 2009-1. The motion passed unanimously by voice vote.

Election of Officers

Dir. Santucci re-introduced the present Board of Directors of the Eagle Pines Homeowners Association. A brief discussion ensued over the desire of others to serve, the duties involved, time required and feasibility of serving with infrequent stays in Aspen. At this point this action item was tabled in order to discuss the 2010 budget. Nominations were received as to the following:

Debbie McNamara – President
 Julie Wooley - Vice – President
 Treasurer - Bill Smithburg
 Secretary - Vincent Santucci

Motion: Dir. Santucci moved & Dir. Julie Wooley seconded to appoint board as so nominated to serve for one year. The motion passed unanimously by voice vote.

2010 Budget

A lengthy discussion on the 2010 budget ensued. Areas of concern were related to landscape costs, thistle, roadway easement maintenance and tree health issues along with the need to raise the assessment level in order to fund a road replacement project. Road replacement discussion included current costs, timeframe with an increased assessment level of \$1500/lot, replacement of concrete borders and bids. Entry landscape discussions included current costs and outcome versus expectations for increased funding and outcomes for 2010. Ideas surrounded vines along rock faces, evaluation of Mugo Pine suitability, and a focus on the area along the left side of Buttermilk Road immediately adjacent to the entry. Several members spoke in favor of raising the assessment to \$1500/lot per quarter to fund road reserves more rapidly, and at mid-year 2010 the Executive board will review again. The Board directed management to receive bids on roadway replacement options, landscape improvements at the entrance and a forest health assessment.

Motion: Dir. Smithburg moved, & Vince Santucci seconded, to adopt the 2010 budget as proposed. The motion passed unanimously by voice vote.

Homeowners Comments - Lot 5 Driveway

A lengthy discussion of an unapproved but constructed second driveway at Lot 5 ensued.

Mr. Devine provided an explanation as to the timeline relating to the building of the second driveway. Mr. Devine stated that a decision was made at the time that inclement weather threatened the job site and knowingly executed, without permitting in place, the construction of a second driveway extending from a nonexclusive easement containing a driveway to lot 6 into a carport at the rear of the home at lot 5. Discussions between Dir. & Mrs. Santucci included prior discussions with Mr. Whipple and a thorough investigation of what impacts are for all members of the association and upon the adjacent landowners, the

Santucci's. Mrs. Santucci explained the issues relating to the tone of dialogue, dangers posed by cars entering onto the Santucci drive, and the lack of precedence for two drives in Eagle Pines. Douglas Stuart asked Mr. Devine of the inclusion of said driveway with the original plans submitted for review by the Association, Mr. Devine answered no. Mr. Stuart then asked the members if they would have approved a second driveway within the original plans, most members responded with a no. Dir. & Mr. McNamara raised two primary concerns, one, as it relates to setting a precedence for allowing two driveways within the Association and two, the precedence of allowing the knowing act of violating covenants to be forgiven. Dir. McNamara also expressed concern that the letter from Lot 5's attorney appeared to threaten litigation if the request for a second driveway was denied. Based on this potential for litigation the Board suggested a brief executive session to discuss options with the Board's attorney.

Motion to enter Executive Session

A motion was made by Dir. Santucci and seconded by Dir. McNamara to enter Executive Session of the Board.

Executive Session

The executive session consisting of four officers, property manager, Association lawyer and a recording secretary, convened in private chambers at 4:25 p.m. Topics included: discussion of legal implications, Board's options, and a general discussion of issues. The executive session ended at 4:50 p.m. The Association meeting reconvened with all other attending members at 4:53 p.m. Dir. Santucci recused himself from further discussion and vote due to being impacted as the adjacent homeowner.

A statement by Mr. Bryan regarding the reiteration to Dir. Santucci of the clarification between speaking on the behalf of the Association and as a homeowner along with the understanding between Lot 5 and Lot 6 that communications between Mr. Santucci and the Bank appear to have been harmless in nature and initiated by the Bank.

Motion on Lot 5 driveway

A motion by Dir. McNamara to reject the application of a second driveway at Lot 5 as constructed was seconded by Dir. Smithburg with the suggestion that Lot 5 & 6 work to resolve the matter to their mutual satisfaction, at which time the board will consider the application again. The motion passed unanimously with Dir. Santucci abstaining.

Manager's Report

Mr. Shmigelsky led a discussion on the condition of the Eagle Pines roads, and landscape efforts in 2009, expectations for 2010 and the members engaged in a thorough discussion on forest health issues. Mr. Shmigelsky gave an assessment of health issues of the Aspen trees. Discussion

related to appropriate steps and whether a targeted assessment or an Association wide assessments may be more appropriate. Mr. Stuart discussed the value of the forest as it pertains to home values, and the positive effect of more landscaping at both the entrance to Eagle Pines and the fork in the road at Eagle Pines Drive and Eagle Park Drive.

Adjournment: A motion to adjourn the meeting was made by Dir. Santucci and seconded by Dir. McNamara, and by unanimous voice vote, the meeting was adjourned at 5:20 p.m.

Date of Approval

Matthew Shmigelsky, Manager
Eagle Pines Homeowners Association