



SPANISH PEAKS OWNERS ASSOCIATION

THE SPANISH PEAKS OWNERS ASSOCIATION ANNUAL MEETING DECEMBER 30, 2011 MINUTES

The annual meeting of the Spanish Peaks Owners Association, Inc. (SPOA) was held on December 30, 2011 at 9:00am in the Big Sky Water & Sewer Conference Room. The following members of the Board of Directors were present: Jim Dolan, Chairman (by phone); Dean Genge, Secretary; Karen Roberts, Treasurer. Association Management staff representing Alpine Property Management (APM) included: Markus Kirchmayr, Brian Schmidt and Catherine Gilb.

Members in Attendance: Nancy Bauchman and Robert Koehler, Larry and Carol Adelman, Loretta Backstrom, Paul Betz, Rogers Crain, Mike Brown, Melanie Callander, Kent Carlson, James Walker, Richard Tibadeau, Jamie Daugaard, Michael DeFelice, Harry and Kim Deffebach, Nancy and Mike Domaille, Brian Dowd, David Duncan, John Edgcomb, Steve Edwards, Chris Fleming, Bob Vanyo, Mark and Marie Goode, John Haas, Micahel and Sheryl Henderson, Stephen Hill, Robert and Nina Hill, Lara and Casey Hodgson, Martha Johnson, Bill and Walker Jones, Robert and Patricia Kimmel, Peter Lee, Kristina and Russel Lucas, Michael Mahaffy, Anne McGuyer, Donald and Shelley Meltzer, Robert More, Thomas Nolan, Norm Plaistowe and Kristen Brown, Maggie Riker, Andrew Roberts, Walter Blessey, John and Linda Schultz, Renae Schumacher, Stephanie Smith, Dean and Lisa Sukin, Robert and Sandra Sunkin, Bob and Katharine Watson, Brad Weirick, Craig and Amanda Marmer. Roughly 20 additional members attended the meeting via teleconference, but their names were not available.

Welcome

Mr. Dolan welcomed the members present.

Establish Quorum

All members of the Board of Directors were present establishing a quorum. The meeting was called to order at 9:10 a.m.

President's Report

Mr. Dolan started the president's report by recognizing that the past year has been an active and critical year for the SPOA. There have been 13 sales in the past 12 months. Of these, 8 bought vacant lots, 2 bought cabins and 3 bought homes.

On October 1st, Karen Roberts was added to the Board to replace Bert Mills who resigned from his position. Ms. Roberts is a homeowner and brings with her a strong accounting



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background. Ms. Roberts was appointed Treasurer and has reviewed the control procedures, accounts and contracts that affect the financial position of the SPOA.

Delinquent accounts continue to be pursued and collected. Liens and other control methods are being explored. Last year, the Board reported on efforts to control and collect delinquent accounts and the challenges presented thereby. The SPOA instituted liens on a number of delinquent properties and worked with the Club entity to collect unpaid amounts at settlement of a membership account related to a property sale. This year, with the bankruptcy filing of Club, one of the SPOA's major collection tools has been eliminated. As such, the board reevaluated the delinquent accounts and determined, in consultation with the outside accountants, that a write down of a number of these unpaid amounts was required. These are presented in the 2012 budget and will continue to be evaluated.

A new SPOA website was launched providing owners access to Association related material and improving communication between the Board and the SPOA members.

The SPOA will be conducting our first road repair expenditures this coming year from the Reserve Fund. The Treasurer has budgeted the recommended work. In the spring, the work plan will be reviewed and contracts let based on the assessment. Generally speaking, our roads appear to be in fine shape with no major areas of cracking, settling or other damage after a number of years of being in place.

The Architectural Review Committee continues its work and is overseeing the construction of nine residences, and is reviewing or has completed review on eight additional new residences. Markus Kirchmayr of Alpine Property Management has been added to the Committee as a non-voting member.

For 2012, the SPOA will be conducting a review and update of the Reserve Study that was done in 2008. The bankruptcy of the Club at Spanish Peaks and Spanish Peaks Holdings in combination with the economic downturn during the past years has meant that development may not be on pace with the anticipated growth. When things have settled and the future direction of the Club is clearer, the Board intends to have the reserve study updated and the amount of the reserve funding evaluated.

The SPOA will continue, as funds allow, to aggressively attempt to manage the Pine Beetle infestation as a serious blight on the community and the homeowner properties. It also presents a serious long-term fire risk.

The suspension of Club activity following the bankruptcy has had a significant, although hopefully brief, impact on the community. It is important to note that none of the current bankruptcy proceedings directly affect the financials of the SPOA. The SPOA will, however, no longer benefit from the voluntary developer subsidy, which will be covered in the



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Treasurer's report. The SPOA has cash in excess of \$1,000,000 in its combined Operating, Reserve and Transfer Fee funds. Prompt payment of assessments is a critical piece of the operation of the Association. The Association bank accounts are under control of the SPOA Treasurer and an independent accountant.

To clarify the distinction between the SPOA, the Club and Spanish Peaks Holdings, Mr. Dolan notes that the SPOA provides services to lot and homeowners who have purchased land or residences in our community. The CC&Rs govern the SPOA and define the duties of the Association. The responsibilities extend to the open space, roads, common areas and security services. The activities of the Club, including golf and food & beverage are not offered or funded by the SPOA. Spanish Peaks Holdings owns the land, including the golf course and ski runs. The SPOA operates independently from either of the other two entities.

As the bankruptcy process works its way through the complex court matters, the SPOA will continue to operate as it has. The Board asks each member to recognize that the SPOA is independent of the bankruptcy case and should not be directly affected by it. SPOA dues and assessments need to continue to be paid.

A number of Board meetings have been held over the past year. The current Board has shown itself to be a strong working entity. The Trustee's sale of the SP assets has impacted some operational aspects of the SPOA. Particularly of note is that the sale of the Clubs' vehicles has impacted the Security presence. The Board will continue to evaluate matters on an ongoing basis as matters develop. The SPOA remains committed to protecting the homeowner's interest and the community of Spanish Peaks and to communicating our activities and issues via the web site updates and emails from the board.

Minutes

Mr. Dolan stated that the agenda included the December 28, 2010 annual meeting minutes. Mr. Dolan asked for a motion to approve the minutes. A motion for approval was made by Mr. Genge and seconded by Ms. Roberts. Mr. Dolan calls for discussion and Mr. Nolan posed a question regarding the statement last year by Mr. Dolan that the SPOA was financially stable and that the developer intended to continue the voluntary subsidy. Mr. Dolan responded that the report provided by the Board related to the SPOA financial position with no knowledge that the subsidy would change. Mr. Dolan also pointed out that delinquent payments of dues have a greater impact on the financial position of the SPOA than did the subsidy. With no further discussion the motion to accept the minutes passed unanimously.

Manager's Report

Mr. Dolan said that Alpine Property Management has been engaged by the Association as the Property Manager and asked Mr. Kirchmayr for the Manager's Report.



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Mr. Kirchmayr reported that since becoming the Property Manager, APM has spoken with a forest management company to review the status of the forest management plan. A meeting will be scheduled for the spring to review the status of the forest and, if necessary, to develop a detailed management plan for the summer season.

K7 Snow Works, Inc. was contracted for SPOA snow removal. They also have the contract for the BSOA and possess the experience and equipment necessary for the job. The quality of their service will continue to improve as they receive feedback and gain familiarity with the Association.

Next summer, APM will oversee the contracting of a noxious weed specialist. The Association has had success in the past with the contractor used in the past so it is likely that it will remain the same, but bids will be collected from several companies.

Road repair is scheduled for next summer in accordance with schedule called for in the current reserve study. Knife River is a well-known company and recently submitted a quote for chip sealing the roads. Although the price of chip sealing fluctuates, the quote of \$164,970 provides a baseline. Knife River reports that they are familiar with the quality of the Association's roads and they were built to the highest standards. Additional bids will be collected and the Board will award the contract to the company of their choice.

Options for collection of unpaid assessments, beyond filing liens, are being explored. The SPOA, through the Property Manager, intends to take delinquencies past ninety days to collections.

Routine inspections of the Association grounds are conducted two to three times each week.

Mr. Genge added to the Manager's Report that the work of the Architectural Review Committee continues. He stated that the guidelines and review process are an essential part of maintaining continuity in the appearance of the community. Dean Genge and Jon Olson serve on the committee as does architect Nate Peckinpaugh. Property Manager Markus Kirchmayr serves as a non-voting member. Alpine will coordinate the administrative side of the ARC. Please contact them at (406) 995-7211 or <info@apmbigsky.com> to inquire about the status of your application or to apply for the review of any construction or remodeling you would like to have approved. APM will coordinate all meetings and communication as well as collect fees, track and return the necessary deposits.

A question was posed regarding the expense of maintaining the South Fork and Ousel Falls roads. It was noted that these roads are not the responsibility of the SPOA. These roads



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were part of a Rural Improvement District (RID) enacted by the county, which means that taxes are used to maintain and repair the roads. The Yellowstone Club and the Club at Spanish Peaks were responsible for snow removal on these two roads. With the bankruptcy of the Spanish Peaks, the Yellowstone Club alone now handles the contracting of snow removal.

A question was posed by owner Tom Nolan regarding the possibility of having some of the cost of the security services shared by the Trustee representing Spanish Peaks in its bankruptcy. Currently there is no security for the Club assets: the clubhouse, the pool, the pool buildings, the gatehouse, etc. It was suggested that because the Trustee is responsible for the security of the Club's assets and because the Club's assets are of importance to the Club's continuation and the member's interest in the Club, the SPOA should approach the Trustee about providing security for these assets. In the past the developer paid for 25% of the cost of the security services and the SPOA paid 75%. Perhaps this cost could be shared between the SPOA and the bankruptcy Trustee.

Treasurer's Report

Following the resignation of Burt Mills, Karen Roberts was nominated and appointed to the Board. Changes continued in the management of the SPOA with the resignation of Lauren Waterton from American Land Development. RFPs were sent out for management companies and Alpine Property Management was selected. APM was chosen because the company is well respected in the community, their pricing was competitive, and since they also have the management contracts for the SCOA and the CCOA, the Board felt that the SPOA would benefit from a synergistic effect of having the same management company for all three organizations.

RFPs were also sent out for accounting firms. RC Holsinger, PC has been the accountant for the SPOA since May, 2009. The Board decided not to change accounting firms this year for two reasons: (1) Holsinger's pricing, although higher, was not that much different from those of the other accounting firms reviewed, and (2) the Board thought that changing accounting firms and management companies at the same time might cause too much change and disruption for the Association.

The financial impact on the SPOA of the Spanish Peaks bankruptcy is twofold; the developer's voluntary subsidy is no longer available and the SPOA no longer has the ability to recover unpaid assessments from membership deposits with the Club. This means that post-bankruptcy, any unpaid assessments not collected from liens become an expense of the SPOA. The voluntary subsidies, i.e., assessments that the developer paid for the unsold properties, were as follows over the past several years:

- FY2009--\$114,640
- FY2010--\$122,500
- FY2011--\$118,675



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A total of \$158,388 of unpaid assessments was either written off or reserved in FY2011. This amount included \$38,000 of actual account write-offs for the balance of uncollectible assessments that remained after liens were settled on the sale of five properties. At the time of the Club's bankruptcy, there was approximately \$27,000 in uncollected assessments that potentially could have been recovered from membership deposits. The remaining \$120,379 of the \$158,388 represents 75% of the balance for accounts deemed potentially uncollectible. The Board has been trying to collect these assessments over the past couple of years and will continue its collection efforts. To be conservative, however, the Board felt that reserving 75% of these uncollected assessments was prudent. An additional \$25,000 has been budgeted for uncollected assessments for the 2011-2012 fiscal year.

A question was asked about the possibility of whether the SPOA might have a claim in the bankruptcy against club membership deposits for payment of delinquent accounts. Ms. Roberts explained that the SPOA and the club are separate entities and while amounts owed to the club under the CCRs are special assessments of the SPOA, amounts due the SPOA are not obligations to the club. The club and the SPOA negotiated with the exiting member the amount of deposit to be used to pay down SPOA obligations and the amount of deposit to be returned to the member, in lieu of alternative collection actions. The SPOA delinquency obligation remains with the delinquent owner and is not transferred to the club.

The FY2011 Budget to Actual was reviewed, and Ms. Roberts noted that the accounts receivable amount of \$52,332 include 17 members who historically paid their assessments on time but have not yet paid their Q1 assessments. It is possible, she continued, that some of these owners have not yet paid because of confusion over the bankruptcy. Ms. Roberts said that she would personally follow up with these members before taking any collection or lien action.

The profit and loss statement was reviewed and Ms. Roberts noted that the assessment income was on track simply because assessments were billed to all members. Since not all assessments were collected, however, cash balances were lower than expected. She also noted that the ARC fees were lower than expected because the budget number is based on an estimate of new construction over the coming year. Construction was lower than anticipated resulting in lower ARC income and lower related expense. Ms. Roberts pointed out that the variance in general and administrative costs were largely due to an increase in bank service charges. Over FY2009 and FY2010, the SPOA shared bank services charges with other accounts that were subsequently closed, leaving the SPOA as the only account now bearing the administrative costs. Reducing these bank service charges is one of Ms. Roberts's priorities.



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Ms. Roberts pointed out that the \$50,000 budgeted for fiscal 2011 forestry management was not used. There was almost no forestry management work done this past summer because the weather was cooler and wetter than in the past two years and the spruce budworm and the pine beetle infestations had slowed. In the spring, the forestry situation will be reviewed and work will continue if needed.

Ms. Roberts reviewed the balance sheet and noted the following:

- The reserve fund is on track with the 2008 reserve study. Because it is not yet clear who the new owner will be, the Board feels it is prudent to wait until the bankruptcy is settled before updating the study.
- Since not all of the assessments have been collected over the past few years, the actual reserve cash balance was underfunded and out of sync with the reserve liability account. In order to bring the actual cash account balance in line with the reserve liability account, the Board decided to make a one-time cash transfer from the transfer fee bank account to the reserve bank account. The Board determined that taking this action was preferable to issuing a larger increase in the FY2012 base assessment that would have been necessary if this transfer had not been done.
- The Board decided to change the way it had been funding the usual deficit that occurs during the first six months of the fiscal year when snow plowing costs are high and first and second quarter assessments are too low to cover all of the monthly operating costs. In the past, ARC compliance deposits have been used to fund the operating account deficit. The Board set up a separate ARC deposit account and approved funding any operating account deficits from the transfer fee account.

A member asked if the Board had considered the issue of insurance on the cash balances since they were over the FDIC limit of \$250,000. Ms. Roberts said that she would look into the situation.

Another member asked how the trails asset was valued. Mr. Genge replied that he believed the value was based on the actual cost of the trail development. Then the member asked whether the value of the trails would be impacted by the bankruptcy of the Club. Although the SPOA paid for the trail development, the land on which the trails were built is considered common land and is owned by one of the companies in bankruptcy. Ms. Roberts said that the Board would look into this issue.

Ms. Roberts then addressed the budget for FY2012. She first explained how the base assessment increase was calculated: Annual assessment income was calculated using the base assessment from the prior year. The budgeted expenses were then summed and if they were greater than total budgeted income, the deficit was divided by the number of members to calculate the per member increase in base assessment for the coming fiscal year. Ms Roberts noted that the calculation did not fully reflect the ultimate outcome since



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the assessment income included the properties that were currently delinquent. She explained that it was necessary to include the delinquent accounts and bill them their assessments in order to be able to collect the full amount owed from imposed liens.

The second largest budget line item was for security. Mr. Genge explained the post-bankruptcy security situation. He said that after the bankruptcy of the Club was announced, the Board felt that keeping the security function was advisable to maintain a presence as a deterrent to vandals. Because the security vehicles were club property (and sold at auction) the security personnel are required to use their private vehicles when patrolling the property. With no visible security identification on the vehicles, security has essentially become invisible and the deterrent value non-existent. As such Mr. Genge moved that the security service be discontinued, Mr. Dolan seconded the motion, and the issue was opened for discussion.

Much discussion followed with a part of the members present being in favor of eliminating the security function and the rest being opposed to its elimination. Without a clear indication from the members as to whether or not the security function should be eliminated, Mr. Dolan suggested that the security personnel be retained for 90 more days in order to give the Board time to investigate more effective security options. With this said, Mr. Dolan called for the directors to vote on the proposed motion to eliminate the security function. The directors unanimously voted to oppose the motion.

The treasurer completed her presentation of the budget and said that as the current approved budget stands, members could expect an annual increase in their base assessments for FY2012 of \$295. At the beginning of January, the second quarter assessments would be billed. Members would see a charge for \$67.50 representing the first quarter increase and then a charge for \$705 being the second quarter assessment. She said that once the security issue had been reviewed and the related cost determined, perhaps the budget would need to be revised again. If the results of today's discussion lead to a significant change in the FY2012 operating costs, the Board would consider revising the budget later this year. If the Board found that it could reduce the current fiscal year's assessments, the reduction would probably not appear until the Q4 assessment bill.

A member then suggested that the Board hold another member meeting at the end of the quarter in order to review status of the issues raised during this meeting. The Board agreed to consider such a meeting.



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Question & Answer

After the Treasurer's Report, Mr. Dolan opened the meeting to questions from members.

Q: The Lone Peak Lookout published an article questioning who was in charge of the water for Spanish Peaks. Could clarification be provided about this issue?

A: Spanish Peaks Holdings (SPH), one of the companies currently in bankruptcy, owns the water infrastructure and the wells. Per an agreement signed between Big Sky Water & Sewer (BSWS) and SPH, however, BSWS is responsible for routine maintenance of the water system. If a larger repair is necessary, BSWS is responsible to make the repair and then to collect from SPH or, as things currently stand, the bankruptcy trustee.

Q: Does the SPOA have adequate insurance on the water lines and sewers such that if there were a break, coverage would be available?

A: The SPOA does not own an interest in the water and sewer lines. The responsibility for the water lines rests with the bankruptcy Trustee. The sewer system, however, is owned and maintained by BSWS.

Q: The Bylaws state that up to five Board members may be appointed by the developer. Would the Board be willing to move to approve two additional Board members?

A: With the Trustee in control of the Spanish Peaks Holdings entity, no member of the Board has the authority to make such a motion.

Q: Is there a conflict of interest in the current Board composition?

A: When the Club filed for bankruptcy a Board meeting was held and this question was addressed. The members of the Board, particularly as they are homeowners themselves, are not aware of any conflicts of interest. If any Board member had a conflict, he or she would recuse him or herself.

Q: Does the membership have the right to ask the Board to make a proposal to the Trustee regarding the addition of two members to the Board?

A: The Trustee seems to be solely interested in the financial matters pertaining to the bankruptcy, so it is unlikely that such a proposal would be successful.

Q: Would the Board be open to appointing two advisors to the Board to allow for increased involvement of the membership?

A: The Board was open to this suggestion. Mr. Dolan moved to approve from two to five members, to be appointed by the Spanish Peaks Ad Hoc Member Group, to act as an advisory committee to provide member input to the Board during the 2012 fiscal year. The appointees will be non-voting advisory positions only, and must be current on their SPOA assessments. Ms. Roberts seconded the motion. Mr. Dolan



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advised all members present that because of the extraordinary circumstances, the Board was acting on this motion without fully reviewing whether or not this action was in compliance with the Bylaws and CC&Rs. A vote was taken, all directors were in favor, and the motion passed unanimously.

Adjournment

There being no further business, the meeting was adjourned.

The minutes were approved by the Board on this date:



Director

December 28, 2012
Date