

Pawnee Hill Community Association

Monthly Board Meeting

Minutes

May 12, 2005

Board Attendance: John MacArthur, Tina O'Bryan, Pam Schultz, and Walt Day

- 1) Call to order 7:18pm
- 2) Agenda – Motion to approve, Seconded and Passed (4-For 0-Apposed)
- 3) Minutes – Motion to approve, Seconded and Passed (4-For 0-Apposed)
- 4) Management Company Statement by Board - After a lot of research, it was determined the Management Company would be an asset to the community, but it does not seem to be in the budget at this time. Motion was made to set the issue of the Management Company aside due to the cost and the fact we cannot afford this as a community. The current board is all in agreement on this issue. Motion to set aside Management Company, Seconded, and Passed (4-For 0-Apposed)

Comments and Discussion:

Homeowner: Are the dues increase directly related to the Management Company are they in unison or separate issues.

Board: Separate issues

Homeowner: Thanks to the board for making this decision and we agree with that decision.

Homeowner: We would like to thank them for being responsible with the money.

Homeowner: What was the cost? Board: Estimates only, but it was approximately \$1,100/Month.

Board: While we saw benefit and we found only two companies that would service us and neither were located in Elbert.

- 5) Dues increase – From reviewing the budget and projects needed in the near future and the need to recover the monies that we drained from savings. Concrete pile and Retaining wall, and a number of other projects that need to be addressed in the very near future. We also believe that we will be forced to incur legal fees that are not in the budget. All of this will total more then the maximum allowable that is currently at \$41.57. We will not try to get the .57 but we are looking at the \$41.00 for our monthly dues. The dues were last increased on April 15, 2000, but the number of years does not impact the current increase. The increase in utilities, vendor service charges and natural gas costs since April 2000 also play a factor. The board feels that the dues increase is justified and necessary to maintain the facilities.

Comments and Discussion:

Homeowner: What is the cost without legal fees and can we recoup the cost?

Board: About the legal fees being recouped we would be about \$1.50 per house for legal fees. We have in the bylaws that we can ask for them to be recouped according to the attorney, but the judge will make the final decision. The judges do have guidelines and rules to operate within, but we will have to put the money up front and leave it up to the judge.

Homeowner: Why is the board pursuing covenant violation?

Board: This board has not pursued or has sought out any covenant violators. One individual put in 12 of the last 14 covenant violations.

Homeowner: Responded that he did 12 and if you enforce one covenant you must enforce all the covenants.

Homeowner: The board or this community will not incur any cost from me as a homeowner. He will solve the issue directly with the individual. People can communicate with the individual that is out of compliance.

Homeowner: Take a look at the covenants and re-adjust the covenants and is the board going to take a look at the building and the building study (Reserve Study).

Board: Covenants are what they are and it takes a vote by two thirds of the community to change the covenants. It is very difficult to get this and it was tried last summer. It is that way for a reason. It is not easy to make changes to the covenants to protect every homeowner.

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Homeowner: Did the board not say, in the last meeting that the bylaws need to be changed?

Board: The bylaw changes are separate from the covenant changes. Some things do need to be clarified, like driveways that are in question. We are unclear about driveways, so we have to refer to the county laws.

Homeowner: You are singling people out and not enforcing the entire covenants?

Board: The Board is making this very clear that we are not singling out any homeowner for any reason. Don't ask the board to do things against its job. The Board will follow through on covenant violations that are submitted by any homeowner.

Homeowner: Are we going to take a look at the current violations and see if they will be affected by covenant changes?

Board: Covenant changes could take years to respond to with the changes and making new covenants. The community must support the change and the vote must be two-thirds of the community. Some of the covenants may never change.

Homeowner: Aren't we putting the cart ahead of the horse? Before we chop heads and getting everybody upset, when we need to change the covenant.

Board: John MacArthur: I have a supposed violation that is the dumpster in my driveway, that should be shielded from the view of the street. That may be a valid violation and maybe should not be changed. We are remiss to take the heat out of the situation we need to follow through on them for validity and then precede.

Homeowner: First of all there is another side to the covenant issue. Go after the violators and you must go after all violators. You have to go after them all. Lets get the community to get together and not go after each other. I am not going to ask for them to tear down the buildings.

Board: We will go after the violations equally. All of the violations turned in are being addressed. We will not do anything different on any violation that is turned in.

Homeowner: Will the board support our effort to resolve the covenants in a peaceful resolution?

Board: What if the community does not want that covenant changed? We cannot speak for the past board members. The board follows the steps according to current covenants.

Homeowner: Asset Review, do we have money earmarked for the review?

Board: We have many things going at once – Median, concrete pile, retaining wall, and maintenance. We may have to shift that money if there is something that we did not see before the Reserve Study. We are looking at long term planning.

Homeowner: Issue? A constant campaign of miss leading information from one homeowner creates a larger problem then there really is. The level of detail and thought that he uses should be directed to address the issue resolution and not creating problems.

Homeowner: Your opinion!

Homeowner: A valid issue was on the table tonight about a management company. Still, I deeply feel that the board has not communicated information correctly. Do a better job of keeping the information coming. Stopping the newsletter was a bad idea.

Board Member: Everybody does have to communicate and we as a board do.

Homeowner: Bob, I would like to say I have listened to so much come from you and you try to be constructive, but they are destructive. Some information is bad and other information is false. You are being self-serving for you and a select group of people.

Homeowner: I have an agenda and I do have my own reasons. Clubhouse manager is way out of line and the covenants are very discriminating.

Homeowner: In the past you have made innuendos and false accusations of fraud, if they are illegal then get your opinion to the DA.

Homeowner: I feel spending 40% of the budget on a Club House manager at \$20,000 year is a bad decision and I still think it is.

Homeowner: *(Directed at homeowner in question).* What is appropriate for this community?

Board: *(Directly to the homeowner in question).* Do you still have on your agenda to get rid of the Association and dissolve the HOA?

Homeowner: Be specific on what you think is liable.

Homeowner: I truly felt that they were going to go through with what I posted on the bulletin board. The board has stated that they will enforce covenants.

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Board: Yes, the board intends to enforce the covenant violations that are turned in. After the board came after you for violations and then you turned in others.

Homeowner: The board can also prioritize what they would like to pursue.

Board: Did you write to the board that you were in violation of the covenants?

Homeowner: I did.

Board: This board will not chase and seek out any covenant violation. John MacArthur did drive around the neighborhood slow, but was looking for his dog. The board did not turn you or anybody else in for violations.

Homeowner: (*Directed at the same homeowner*). I don't get your energy, it should be turned into something you want changed and you could get something changed.

Board: If you do not like our job description then change it and the covenants.

Homeowner: If we can get a committee together to change the covenants will the board support the change and the committee?

Board: We must remain detached as a board, but hopefully this all will come to a positive outcome.

Homeowner: Dues increase sidetrack-We had a budget to live by and if the board will meet the budget they would be \$2,000.00 ahead of the game. Using dues to pay lawyers to fight each other and we know the covenants need to be changed. Just don't give the money to a lawyer. Who ever was turning people in, would stop if the board would be willing to change.

Board: The board is not the bad guys in this we are doing our job. Other people that are abusing the system for personal gain are wasting the efforts the board is committing to the community. If we do not follow through and do our job we are negligent in our duties as the board to maintain the community.

Homeowner: Money is what it boils down to. Do we have to use a lawyer in order to finalize these issues or can we come to simpler resolution. Instead of using a lawyer to settle claims can we use small claims court for covenant violation?

Homeowner: A small claim is set to a limit of \$0 to \$7500 for each resolution.

Board: We can check with them and see if it possible. The board will take this under advisement.

Homeowner: Personally, I would talk to my neighbor before turning them in for covenant violations to the board.

Homeowner: Does the board have to follow through if the violation is not valid, or is it first compared to see if it is valid or not.

Board: Yes, we do validate before we pursue. Driveways are one example of an issue that we checked and found that it is a county issue and not ours to pursue. We do not blindly go after the people and pursue the issue.

Homeowner: I believe the covenants allow that the board can pursue one person and leave the others alone.

Board: If somebody cannot resolve the issue then we will step in and try to resolve the issue when asked to do so. We will give them the process that is due in accordance with our findings. The lawyer will resolve in 60 days if needed.

Homeowner: Can we have more time or can we reach a solution?

Board: We as a board are reasonable and not out in left field and we are doing what the majority of the community would like us to do.

Homeowner: We have some issues in this area and if you cannot resolve the issue then bring it to the board. The cost of living is going up and the board needs the \$41.00.

Board: Thank you.

Homeowner: Arbitration committee should handle this and get this out of the boards hands. Then we can take the obvious changes out of the covenant.

Board: We are taking the Arbitration committee under advisement, but will still need 2/3 vote to make changes.

Homeowner: Just an observation, the main topic is the covenants every time. It seems logical to sit down and fix them. It would save a lot of heartache.

Board: The actual number of people in violation in this community is a small number of members. Of the 167 members we have (21) that may be in possible violation and that is not that many. Most violations would be clear cut and not changed even if we had a committee.

Homeowner: We need some time to sit down and make some changes.

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Homeowner: This area is pretty and why somebody is picking on everybody does not make any sense. Now everybody is looking at everybody else for violations. I do not have a copy of the covenants and do not have any access to a copy machine.

Board: Made a copy available to the homeowner.

Board: We are holding a meeting on the Management Company and the Dues and only 30 people are here and only half of you are against it. This is not a big issue for the community and not a big majority of the people agrees with the small group that is here.

Homeowner: That is your assumption!

Board: This is important because we believe the people that are not here are very important and they are the majority and the board must represent them.

Homeowner: Do we cover the pool every night and is the pool covered with a solar cover.

Board: We have a solar cover and it conserves the energy and the cleanliness. We are the only board left and Steve Richardson has resigned from the board for his own reasons.

Homeowner: April Osborne donated redwood and this homeowner built a picnic table for outside.

Board: Thanks, Ken for building the table and thanks to April for the donation. What a great show of support for the community.

Homeowner: Main vice of the issues is the covenants, some people on one side and others on the other side. I would be willing to come to a quorum in July to change the covenants with all the information. I will work hard from now till then to get this accomplished.

Board: We will need to have a quorum in order to hold the annual meeting. We still need the 2/3rds of the community to change the covenants. Bylaws are able to change by 51%.

- 6) Dues increase-We have had discussion and talked through this at length. Motion is on table to raise the dues to \$41.00 per month per lot effective July 1, 2005. Seconded and Passed (4 For – 0 Apposed)

Comment and Discussion

Homeowner: Owns two lots and would like to pay only one lot fee-can we hold off this fee. Can we get this changed? He did not know about this when he bought.

Homeowner: Can you sell the lot as a separate lot?

Homeowner: Yes.

Homeowner: Has the lot gained value since you owned it?

Homeowner: Yes.

Board: We as a board sympathize with you and cannot change the lot as it is in the covenants.

Homeowner: I also support the dues increase and will support the board.

Homeowner: Can we put it out to the community to get that changed?

Board: We will have to get them changed by a majority with 2/3 of the community. We wish we could help you but we cannot.

- 7) Open forum:

Homeowner: One thing to say to the board, please do their due diligence and get this resolved.

Board: A homeowner cannot be here, they lost their mobility and cannot get in the community building. Last appraisal for a ramp was \$13,000. Can we check into grants? American Disabilities Act. Tabled for now by the board to do more research.

- 8) Communication from Community-four letters

- a) Copy Attached response to letter from board asking about violation. Thank you for your letter and we cannot respond directly to your comments.
- b) Copy Attached – To read out loud with name and requested to voice opinion. Covenants are good but need to be reviewed.
- c) Copy Attached – Four violations letters tonight Large Receptacle, Clearly two out buildings, Dupe, Dupe.

- 9) Motion to make a change and complaints be read out loud in meetings with complainants name only – omitting the name and address of the accused violation. Motion is withdrawn.

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Opinions

Board Member: Read out violations and names of individuals. Involves everybody in community and would like to have it read aloud.

Homeowner: There could be complaints that they would sue for some reason. Maybe this would not be a game and could be legitimate.

Board: We have a policy in place that may cover these complaints may be filed as follows. *Reading of the current covenant that applies.*

Homeowner: The question on the two out buildings is that for everybody or is that by each situation?

Board: The homeowner in this incident was investigated and is not in violation of this covenant. ACC documents were located and are approved with the understanding that they were allowed to have two out buildings. We are not responsible for previous boards and do not imply current board approval. We are not saying this is across the board for every member.

Homeowner: Once it is approved it is approved forever?

Board: That question could be legal, so we would have to consult an attorney to answer. We checked on this issue and cannot make a statement that it is across the board.

Homeowner: All additional complaints are from one person and not from several people- one person only. We have more coming from another person that is certified and the board will pick them up tomorrow.

10) Insurance Review

Board: State Farm will have recommendation ready for pick up –Attach Copy- 60 days to resolve some issues.

Board: Board took action to seek this out and will take improvements recommendations from State Farm and follow through.

Homeowner: (*To another Homeowner*) what do you think your accomplishing by burdening the board with all this?

Homeowner: We have to enforce all the covenants and not just chickens.

Board: How does the board single you out?

Homeowner: I did what you wanted.

Homeowner: Bob is the covenant police. You are the man that is turning everybody in.

Homeowner: You are the root cause and the only person that is doing this.

Board: You asked specific board members if they would enforce the covenants, Bob in no uncertain terms, you are not singled out and of the 16 complaints, 14 of 16 are from you. The disruption and violation is you. What is the hidden agenda? Is it to absolve the board and has that been your stated agenda. We invite him to do away with this board if he can. Lets put all the violations on the table and get them done with.

Homeowner: That is all of them.

Board: We will act on all of them.

Homeowner: The board can turn them in and do them in any order they choose.

Homeowner: Would prefer to see the covenants change to what the community wants in his opinion.

Homeowner: Can we get the Community to do the work and will do the handrail. 4 months in the area and is new and would like to help.

Board: Steve G. does a ton and some people do help on occasion. We welcome all the help that we could get it done. Dave will do the hand railing.

Homeowner: Steve Giles-Will work on the Barn and trim trees.

Board: We accept any help we can get.

11) Treasurer-Susan spoke with Tina for and 1.5 hours and will bill for 1 and comp .5 will show on next statement.

- a) Electronic payment system issue has not come in mail and still is open.
- b) Account balances (attached)
- c) Bills paid Qwest, Pam Schultz, ABC Solutions, IREA, Peoples Gas and Elizabeth mail center for letters \$1145.40
- d) Approve checks Motion made- Seconded and Passed (4-For 0-Apposed)

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12) Facility Manager Report – no report.

Job description done and we have split up the jobs and assign the categories.

13) Committees

- b. ACC – no report.
- c. Activities-Garage Sale 15th & 16th of July
- d. Arbitration – Inactive
- e. Budget - Inactive
- f. Building and Grounds – Check to Steve for new cabinet
 - a) Solar removal, store fence, and for time being
 - b) Retaining Wall – Neighbor is a civil engineer, concrete to do Retaining Wall-Bid submitted later-Liability issue are pending so by next meeting would be good
 - c) Sign missing member will contact county
- g. Directory-Contacted Bill Curley no Response, volunteer for directory and start from zero and start the process. Tina will send out mailer and send file to John MacArthur or his wife.
- h. Keyless entry - cost would be \$200 to \$600 per lock and cards cost \$200 for several, self contained or link into PC battery powered some outside specific-Tabled.
- i. Equestrian-no report.
- j. Newsletter-no report.
- k. Nominating-no report.
- l. Welcoming-Steve G. has information from Patty and will check

14) Board Business-Qwest has Patty on account and we need to ask for lower rate, but can we call and find out. Tina will contact Patty.

- 1) Attorney she was very nice and possibility of putting in place fees and dues for only 12% and 1% (18% year? No). Remedy under law to file lien and set dollar value threshold and then foreclosure letter to get this remedy. There are two or three that we would like to get resolution and select a dollar value. We need a motion to set a level on unpaid dues to take stronger action and apply fee values. Monthly to \$250 then foreclosure proceeding on three individuals that will fall into that will cover most of the issue. Three months for lien and at six months foreclosure statement. Move for a motion for the collection of past due HOA dues. Motion is made that board take action under law to initiate foreclosure proceedings for those homeowners who become \$250.00 in arrears. Such action would be to send it to the attorney to start proceedings. Motion, Seconded, (4-For 0-Approved)
- 2) Covenant Violation Summary Sheet-Spreadsheet by address, Chandlers Letter submitted Horses, copies in the mail. Minion pasture North fence 3' into bridle all we need is assurance that fence is set back 15' from property line.
- 3) Meeting on Management of facility-2 weeks out for her and we need resolution – hourly payment. Separated descriptions that must be taken by the individual by the job only and Cynthia will apply hours. We will take in applications and add up hours to adjust times \$17,850 (the number we would like to maintain to stay within our budget).

Motion to adjourn meeting. Seconded and Passed (4-For and 0-Apposed)

Meeting adjourned at 11:08pm.

Respectfully submitted by: Walt Day