

MINUTES – Elk Falls Property Owners’ Association
24 May, 2010, 19:00 at the Vastola residence.

Present:
Paul Vastola, President
Fred Wells, Vice President
Suzy Nelson, Roads
Renaë Braun, Treasurer
Bob Phelps, Secretary

Visitors: Charlotte Winzenburg
Sam Shapiro
Barbara Woods
Jane Hulko
John Carr

1. **Introduction of guests and comments:**

John Carr asked about payment of legal fees. Over \$26,000 has been paid on the access case. Fees for the covenant case have not been paid and are on hold pending the judge’s decision on the amount of fees to be awarded the homeowners association to be paid by the parties that unsuccessfully challenged the HOA covenants: Sam Shapiro, Karen Shapiro and Fred Wolf. It was announced that the Board had received notice that Sam Shapiro, Karen Shapiro and Fred Wolf were appealing the decision against them on the 2006 Covenants (not the 1986 Covenants. On questioning, Sam Shapiro refused to discuss any details because it is a “pending” case.

Jane Hulko asked about viewing the invoices for legal fees. She stated she was specifically concerned regarding road maintenance and/or lack thereof. Paul showed Jane records of legal expenses for review but advised that she could not them with her or make copies. She asked if any changes had been made regarding our officers and directors insurance. According to Renaë, there has been no change in the policy. Fred explained that the insurance company had accepted the claim brought by the Dunwodys regarding an alleged conspiracy among the Board and unspecified members of the HOA to damage Dunwoody property and trespass. Jane asked about whether lawyers (Boog and Skillern) are talking. According to Paul, we don’t know. Fred and Bob reviewed the historical attempts at mediation which involved a significant amount of time and effort and did not progress to any meaningful compromises. Most recently, the Board never heard back from the Dunwodys after accepting their offer, made through Park County Sheriff Fred Wegener on their behalf, to mediate the matter. Jane further asked if anyone from the Board going to the Shaffer’s Crossing PUD meeting?.

Charlotte Winzenburg thanked the Board for their work. Charlotte presented a list of questions she thought should be asked at the PUD community meeting regarding the proposed Shaffer’s Crossing development, requested additional input from all attendees, and encouraged everyone to participate with meaningful input..

Sam Shapiro wanted an update regarding moving the old mailbox pad and newspaper racks from his property. The response is that for financial reasons and other recent events, the priority of that task has dropped. The question was asked whether some or all of the items in question were in the road right of way. The

Board will have to check that out.

2. **Accept minutes of last meeting:** Minutes of the last meeting were already approved by e-mail.
3. **Old business:** There was none other than what had already been discussed.
4. **Review of legal expenses thus far:** Discussed in response to Jane Hulko's questions.
5. **Treasurer's report:**

Approximately \$10,000 of dues is still outstanding and Renae expected we would collect about \$6,000 of that.

Second notices for dues owed were sent with directory.

Payments for directory printing and mailing were approved: \$378 to Bob and \$106 to Suzy.

There is one outstanding plowing bill from Black Bear for February 28th that has been received and will be paid.

A financial report through April was passed out.
6. **Road report:** and discussion of spring grading program.

Paul reported that volunteers had helped repair some sections of roads but the work needed exceeds volunteers' capabilities. For example, some ditches were pulled last year but others still need to be pulled. Previous gradings shave cost around \$4000 each including ditch pulling. There was a discussion about the necessity of ditch pulling. A motion was made for Suzy to do a drive through with Scott Crawford and decide what minimally needs to be done and get an estimate. Suzy will have discretion to decide what do do with a \$3000 cap. Passed.
7. **Architectural report:**

The Lopenskies requested approval for installing a split-rail fence. Approved.
8. **Website content disclaimer:**

Christine Groves requested a statement that the Board is responsible for whatever appears on the web site. It was not clear what was meant by this. Suzy will offer her a letter explaining that the Association will assume responsibility for all postings on our website approved by the Board. Renae will check on whether she is covered by the D&O insurance.
9. **Where will legal battle be at time of annual membership meeting?**

We are now in discovery phase which involves lots of documentation. The next phase involving depositions may not be occurring by then. Substantively little more will be available to report but more attorney fees will be generated. The only change would be if mediation were to occur but this doesn't appear likely. The pros and cons of mediation were discussed. A mediator would tell us we should be reasonable and find a middle ground. We already know that. It's never

binding. Binding arbitration is another possibility. That would require agreement of all parties and the Dunwodys have stated that they would not consider binding arbitration. Since the Dunwodys have maintained that they will not grant the homeowners a perpetual easement, the only apparent solution to the dispute, it is doubtful that the matter will be settled other than by the Courts. The Board has and will continue to direct counsel to pursue any reasonable attempts to negotiate a resolution.

10. **Announce appeal by Shapiro / Wolf:** Already announced during guest comments. Skipped.

11. **Annual meeting date, notice and proxy:**

The annual meeting will be on July 11 at the Elk Creek File Department meeting room. It has already been reserved for 14:00.

Paul will prepare letter to be mailed with notice and proxy. Renae will forward last year's proxy and notice to board.

Bob will prepare proxies.

The official notice should be mailed out middle of June. According to our Bylaws, the notice must be mailed between 10 and 50 days before the meeting.

12. The next meeting will be on June 21, 7:00 at Bob Phelps' home.

13. **Adjournment** at 20:35.

Respectfully submitted,

Bob Phelps, Secretary