

## **REGULAR CB SOUTH P.O.A. BOARD MEETING MONTHLY MINUTES: November 11, 2009**

Board Members Present: Al Smith, Cathy Frank, Ty Minnick, Shawn Olson and Patrick Wallace.

At 6:00 pm, Al Smith, President of the Board, called the meeting to order.

Staff Members Present: Chris Behan and Linda Roberts

Others Present: Adam Olmstead, Shannon Renick, Leigh Dillenback, Wes Beard, Pierce Gresham, Virginia Roark, and an interested 2<sup>nd</sup> Homeowner

**Approval of Minutes:** The October 5, 2009, Monthly Board Meeting Minutes were presented to the Board Members for review prior to the meeting. Patrick made a motion to approve the October 5, 2009 P.O.A. Board Monthly Meeting Minutes. Cathy seconded the motion. Motion was unanimously approved.

**Approval of Financials:** The October 31, 2009 financial reports were presented to the Board including: Bank Reconciliation statements for the Money Market, Operating, Hockey Rink, and Performance Deposit Accounts for the month of October 2009; Cash on Hand 10/31/09, 2009 Budget to Actual through October 2009 and Monthly Credit Card Statement. Chris discussed the fundraising for the Hockey Boards, to date, and anticipated revenue potential in future years. After reviewing and discussing the presented materials, Ty moved to approve the financial reports as presented for October. Cathy seconded the motion. Motion was unanimously approved.

### **Unscheduled Property Owner Comment Opportunity Time:**

Chris informed the Board that he has received an inquiry regarding the P.O.A. regulations for Medical Marijuana Dispensaries. Wes Beard presented to the Board that a Medical Marijuana Dispensary in the Gunnison Valley is needed for the health of our residents. Additionally, this is a new and growing business opportunity. He would like to open a Medical Marijuana Dispensary in CB South. Chris explained that The City of Gunnison and the Town of Crested Butte are currently formulating how to regulate Medical Marijuana Dispensaries. The County Attorney, David Baumgarten, explained to Chris that it was his legal opinion that Colorado law allows prescription Marijuana and allows Caregivers to provide medical marijuana to patients with a prescription card. However, growing operations and dispensaries are illegal. According to John Gallowich, Gunnison County Deputy Sheriff, growing and dispensing marijuana is illegal. The current Federal law makes possession of marijuana illegal; however, word is that the law is not being enforced. The Board determined that Colorado law needs to be clarified before the P.O.A. takes action. Further, the P.O.A. would benefit from the guidance from the County and Town of Crested Butte before it formulates its own rules and regulations. Finally, it is important that any regulations formulated would have the support of the Gunnison County Sheriff's Department.

Chris presented the Board with copies of the Forest Service letter which denies allowing the CBMR Snodgrass expansion plans to enter the NEPA process. The Board discussed whether it should be voicing opinions on matters such as this, particularly without surveying the

membership. The Board determined in this case it would be advisable to see how CBMR proceeds. This will help them formulate more appropriate questions to pose to the membership.

Virginia Roark inquired if the Community Garden is in the 2010 budget. The Board assured her that it is, however, we still need to figure out what to charge per plot and the attendant expenses. Virginia expressed that they would seek volunteer materials for a perimeter fence and the expenses should be nominal.

### **New/Continued Business:**

**Driveway Variance Request – for proposed Lawyer Residence at 4607 Bryant Avenue, a.k.a. Lot 39, Block 24, Filing #4.** Chris presented the proposed plans and survey, and gave background information explaining that while all lots in CB South are supposedly buildable, this lot has some unique geographical challenges. Shannon Renick and Leigh Dillenback presented plans on behalf of the Lawyers. They asked the Board for a driveway variance which would allow a 10% grade from the road until the last 20 feet before the garage which would then be a 4% grade. The drive enters from a quiet cul-de-sac so there is little traffic to contend with and there is a turnaround before the garage to allow vehicles to exit the drive, driving forward (not in reverse). To accommodate the steep terrain, the proposed garage and drive are already above existing grade. To lessen the grade of the driveway would require even more garage foundation to be visible. The Board determined that:

1. The steep terrain was unique for this lot;
2. The situation was not created by the applicant;
3. Given that the driveway enters a quiet cul-de-sac, the variance will not be materially detrimental to adjacent property, the neighborhood or the general public.
4. The variance does not depart from the provisions of the CB South Rules and Regulations any more than is required.

Motion by Ty based on the foregoing, to grant the driveway variance at **4607 Bryant Avenue, a.k.a. Lot 39, Block 24, Filing #4** allowing a 10% grade from the road until the last 20 feet before the garage which would then be a 4% grade (or less). Second by Shawn. Motion was unanimously approved.

**Driveway Variance Request – for existing Olmstead Residence at 378 Anderson Drive, a.k.a. Lot 48, Block 26, Filing #4.** Chris presented the original approved plans that are redlined to show what was proposed vs. what was built/installed. The Driveway was approved to be 18 feet wide at its intersection with Anderson Drive; it is at least 39-feet wide, as installed. The driveway would not have been approved if presented during the planning process and in fact, the P.O.A. recently denied Jeff Montgomery's (400 Cisneros) very similar request. There is no hardship not created by the property owner. Additionally, the applicant still needs to provide the P.O.A. with an I.L.C. as required with the height variance granted in this projects approval, to show us they built only as tall as approved regarding height. Adam Olmstead noted that the wider driveway does allow safer snow removal and parking and the County approved the drive. Additionally several neighbors have wider driveways. Chris explained that the rules governing driveway width have changed over the years, so other driveways may have been governed by earlier rules. Based on the information provided, the Board denied the applicants request for a variance to leave the driveway as is. Motion by Patrick to require: the driveway not to exceed the 24-foot width as provided for in the Residential Design Guidelines Section 2.10(h), the

reclaimed area shall remove the gravel and shall be landscaped, the revised plans and completion of the work in accordance with the changes must be approved by Chris, and the P.O.A. site plan shall have the changes redlined. Cathy seconded the motion. The motion was unanimously approved.

**Alleged Covenant Violations Hearing – Frerichs Shed at 245 Teocalli Road, Unit A, a.k.a. Lot 9, Block 5, Filing #1**

Chris provided the Board with a copy of the Notice of Hearing letter sent to Grant Frerichs of Dakota Condominiums.

October 30, 2009

**Taped to Door/hand delivered on October 30, 2009**

Dakota Condominiums  
C/o Grant Frerichs  
P.O. Box 241  
Almont CO 81210

CB South Address: 245 Teocalli Road, Unit A

**RE: Notice of Hearing for Alleged Violations at 245 Teocalli Road, Unit A in CB South**

Grant,

In Accordance with CB South's Governance Policy: *Notice and Hearing and Enforcement Policy and Procedures* (as Adopted on August 13, 2008), you are receiving **official notice** that a hearing will take place regarding the alleged violations on your property, per the notice taped to your front door on October 30, 2009.

**The Hearing will be held on Wednesday evening, November 11, 2009, at 6:30 PM in the P.O.A. Office, located at 61 Teocalli Road, upstairs in the office building.**

The Hearing will deal with the alleged violations, as outlined in this notice (see below). This hearing has been scheduled so that the P.O.A. Board may seek to protect its rights as they are specified in the Governing Documents.

Specifically, the allegations are concerning your new shed, constructed in 2008-2009, that was erected on your property. At first, your shed never received prior written approval from the P.O.A., nor do it meet several sections of the Covenants for CB South or the Residential Design Guidelines for CB South. More recently, your shed received written approval, but that has since expired. The shed's history is summarized as follows.

1. The unauthorized construction of your shed began in late August/early September of 2008.

2. On September 8, 2008, you received a stop work order notice (and were also informed verbally of the requirements of the P.O.A. regarding sheds) that your shed's construction was not authorized or compliant with the Rules and Regulations for CB South.
3. On September 25, 2008, you spoke with the P.O.A. Board of Directors at their regular meeting regarding the September 8, 2008 Notice. At that Meeting, the Board of Directors instructed you of the following:
  - That you must first complete the P.O.A. application process for your shed.
  - The finished structure must comply with the P.O.A. setback requirements, and
  - Must be either attached to the main structure or the other outbuilding on the property once the existing outbuilding (a.k.a. your shed) is in compliance with setbacks and design requirements for CB South).
4. On May 11, 2009, you finally submitted a building application to the CB South P.O.A. for your shed, paid an application fee of \$150, paid a refundable performance deposit fee of \$300, and signed the application with the statement that all of the applicable guidelines for the shed would be satisfied by September 30, 2009.
5. On October 7, 2009, you received an alleged violation notice informing you of the alleged violations of the Covenants for CB South as a result of your failure to meet the requirements of CB South regarding your shed's approved application on or before September 30, 2009.
6. On October 17, 2009, by way of your lack of response to the October 7, 2009 Notice, you forfeited the \$300 Performance Deposit to the CB South P.O.A.
7. As of October 30, 2009, the P.O.A. Office has not received any contact from you regarding the October 7, 2009 notice of alleged violations.

The alleged violations are:

1. Unauthorized additions or modifications in CB South (i.e. your shed), pursuant to the CB South rule that addresses unauthorized additions or modifications in CB South, as adopted by the CB South Board of Directors on March 13, 2008, which states: **“As a deterrent to any unauthorized additions or modifications in CB South, if a property owner or tenant is caught doing or having done any modifications or improvements in CB South, without documented P.O.A. approval, the offending property owner may be charged a fee of up to \$50,000. CB South P.O.A. reserves the right to pursue all legal rights regarding enforcement and may impose other additional terms and conditions as deemed appropriate by the Board.”**
2. Section 4.01 of the Covenants for CB South, which states: **“No building, structure, wall, fence, or addition or exterior alteration to any building, structure, wall or fence shall be commenced, erected or maintained unless and until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, location and approximate cost of the same shall have been submitted to the Committee for its consideration and approval or disapproval in writing.”**
3. Section 5.02 of the Covenants for CB South, which states: **“Only one structure for use as a dwelling place shall be constructed on any lot or cluster development. One outbuilding which may be a garage or storage building or a combination of the two may also be constructed.”**

4. Section 9.01 of the Covenants for CB South, which states: **“No building, or any part thereof, except as otherwise provided herein, shall be erected or maintained closer than 25 feet to any street, nor closer than 25 feet to the rear line of any lot.”**
5. Per the Residential Design Guidelines for CB South, side-yard setbacks for all structures (including sheds) on residential lots are 15-feet.

Neither the complaining parties nor the Owner (or owner’s designee) must be in attendance at the hearing. However, the decision of the Board or Board-appointed committee at each hearing shall be based on the matters set forth in the Notice of Alleged Violation, Request for Hearing, and such evidence as may be presented at the hearing. Unless otherwise determined by the Board or Board-appointed committee, all hearings shall be open to attendance by all members of the Association.

After all testimony and other evidence has been presented to the Board or Board-appointed committee at a hearing, the Board or Board-appointed committee shall render its written findings and decision, and impose a reasonable fine, if applicable, within ten (10) days after the hearing. A decision, either a finding for or against the Owner, shall be by a majority of the members of the hearing board present at the hearing. The Board or Board-appointed committee may also issue and present for recording with the County Clerk and Recorder, a Notice of Finding of Violation. Upon satisfactory compliance with the Association's Governing Documents, the Notice of Finding of Violation may be released by the Association issuing and recording a Release of Notice of Finding of Violation.

Sincerely,

Christian Behan, AICP - Association Manager  
CB South Property Owners Association  
61 Teocalli Road, Crested Butte, CO 81224  
phone: 970.349.1162  
email: [chris@cbsouth.net](mailto:chris@cbsouth.net)  
fax: 970.349.1163  
web: [www.cbsouth.net](http://www.cbsouth.net)

As stated in the letter, this has been a violation for over a year. Grant was not present in person or by representative. Since receipt of the letter by Grant, the siding has been installed on the shed. The shed still violates the setback rules on two sides of the property. Additionally, the shed still violates the rules that allow for only one outbuilding per lot. Neighbors have complained about Grant’s shed. The P.O.A. goal is to have compliance with our rules. In this case that would entail either removing the shed or moving the shed and attaching it either to the other outbuilding or to the main building subject to design review and approval by the P.O.A.

Motion by Shawn that the Board finds **Grant Frerichs Shed at 245 Teocalli Road, Unit A, a.k.a. Lot 9, Block 5, Filing #1** is in violation of CB South Covenants and Residential Design Guidelines for CB South; and instructs Chris to deliver to Grant Frerichs a Notice of Findings of Violation and file the same with the County; Grant Frerichs shall have until November 18, 2009 to bring the property into compliance with CB South Covenants and Residential Design Guidelines for CB South, after which date the property shall be subject to a fee of \$50 per day

until the property is brought into compliance. Ty seconded the motion. The motion was unanimously approved.

**Annual P.O.A. Dues Increase for 2010 – Discussion and Possible Decision (an increase of up to 10%, as allowed in the Covenants for CB South) and Continued 2010 P.O.A. Budget Formulation and Possible Adoption**

Chris presented a proposed 2010 Budget based on a 10% dues increase. This Budget includes the assumption that the P.O.A. would not be waiving application fees in 2010. The dues increase and application fees will ensure:

1. That we have adequate funds to pay for 234 days of bus service into CB South at least 3 times each day for all of 2010 (Spring/Summer/Fall when the ski area is not open)
2. That we have adequate funds to financially support the RTA's effort to pursue the land acquisition and development of a park and ride at the intersection of Highway 135 and Cement Creek Road, which will help provide more busing options for our residents while the ski area is open, and improve the safety of that intersection.
3. That we have adequate funds to continue the level of service this P.O.A. has provided over the last 4+ years.

The Board spent significant time going over each line item on the budget. The Board stressed that in these difficult financial times, any dues increase must be justified. In particular the Board examined the expenditure for possible bus service into CB South in the amount of \$12,000. The RTA has stated that it would provide 3 trips per day from CB South to the Town of Crested Butte during the Spring, Summer and Fall of 2010 (234 days). Bus Service into CB South was the highest priority in the 2008 survey results. To fund this would show RTA that CB South is serious about supporting bus service into CB South and could be a toe hold to establishing greater bus service into CB South in the future. Further if it turns out that this bus service is not utilized we would have this information and have the option to not fund this in future years.

The budget had proposed payment to RTA in the amount of \$10,000 as our portion of support for the proposed Park & Ride out at the intersection of Cement Creek Road and Highway 135. RTA has made it clear that they will not provide bus service into CB South during the ski season. They propose this park & ride to address the immediate needs of the valley. If the RTA can raise \$100,000, they have the potential to receive a grant for an additional \$400,000 to fund the purchase of the land for and the construction of this park & ride. The RTA at the September 2009 Board Meeting had requested a contribution from CB South as a show of support for this endeavor, with the understanding that this is not the long term solution for transportation issues for CB South. The Board examined the budget closely and even with a 10% dues increase, the maximum available would be a contribution of \$5,000. The board approved a contribution to the RTA for this park & ride not to exceed \$5,000 and with the proviso that if the RTA is not able to secure the grant and build the park & ride, CB South would be refunded all or a pro rata portion of our contribution. Further, the Board instructed Chris to investigate funds which the Country receives from the US Forest Service, to see if these funds could be used instead of (or in addition to) P.O.A. Dues.

Other matters included:

- Chris will explore raising our Hockey Rink Rental/Use fees for the 2010-2011 season
- We are looking at offering ice skating lessons, if the fees will cover expenses
- We will add a column to the budget to show actual income & expenses for 2008
- The Board was of the opinion that weed control continues to be a priority. The P.O.A. has been mowing the right of ways, which should help keep weeds from going to seed and we plan to spread some grass seed in these areas.
- Ty will investigate whether we could get our audit and tax returns prepared for less
- Metro has provided us with many services and conveniences and we will continue to try to work with them toward the best interest of all
- There will be a donation box (with a lock) at the Nordic system trailhead. Policing of the Nordic system will be self-policing & honor system. Non-residents who make a donation will be allowed to ski on the trails.
- There will be a “ski at your own risk” sign at the Nordic system trailhead. The P.O.A. does have liability insurance for the Nordic trails.
- Brian Dale may be interested in offering Nordic ski clinics, which could raise funds for Nordic.
- Teams using the Hockey Rink will sign liability waiver forms

The Board noted that a 10% increase in 2010 dues would result in additional dues of \$2.04 per month for a single family residence. While the Board is very sensitive to the fact that property taxes are also going up, the improved bus service and safety for those using public transportation, improved skating, improved Nordic skiing, and community garden are good values, improve the quality of life for those who live here, improve property values and justify the increase. Motion by Patrick to approve a 10% increase in the dues for 2010, as allowed by CB South Covenants. Ty seconded the motion. Patrick, Ty, Al and Shawn voted to approve the Motion. Cathy voted against.

Motion by Ty to approve the proposed 2010 budget as presented with the following revisions:

- Bus stop maintenance shall be reduced to \$100.
- General CB South Ground Transportation (support for the Park & Ride) shall be \$5,000
- Nordic Grooming Equipment (grooming equipment that was ordered in 2009, but will be paid for in 2010) shall be \$5,000.

Patrick seconded the motion. The motion was unanimously approved.

### **Manager's Report**

- New Hockey Boards Status Report-the new boards are going up & should be finished soon
- Chris Recently submitted a Grant Request To Gunnison County (\$4,000 for the new hockey boards & \$6,500 to help Metro pay for new snow removal equipment which they will use to clear our hockey rink) – He will make a presentation to B.O.C.C. on November 19, 2009, in Gunnison at 8:20 AM

- Park Reclamation Status Report – We should be close to done (and re-seeded) this week and it looks great!
- Chris' Annual Review - Finished 4<sup>th</sup> year on October 17, 2009- the Board will meet informally (possibly in executive session) and get back to Chris
- There will be a short December P.O.A. Board Meeting on December 9, 2009 to address remaining issues on the RV decision and any other matters that may arise.

Chris presented a list of things CB South did not have in 2005 which the Board added to. Cathy suggested that this list be included with the 2010 dues invoices:

1. A full-time, professionally trained and accredited Association Manager
2. A professionally trained accountant
3. over 140 Mail boxes for rent near the P.O.A. Office
4. A New P.O.A. Truck
5. All non-operational funds in interest bearing accounts
6. Over \$43,000 in Grant Money/Donations Received
7. A climbing rock
8. A maintained pedestrian path along the entire length of Teocalli Road
9. Maintained road Right of Way – mostly weed free and mowed/trimmed
10. A Fishing Pond
11. 3 Horseshoe Pits
12. A Bicycle Pump Track
13. Community Bikes (50% paid for by the RTA)
14. 2 new Lights at the Cement Creek Road and 135 Intersection
15. No more ugly fence across the street from the P.O.A. Office
16. Commercial Development Guidelines
17. Complete Land Use Authority over all our subdivision via the Special Area Regulations
18. Complete Variance Authority in the Subdivision
19. Updated and consistently enforced Design Guidelines
20. Construction Rules and Regulations
21. Almost 500 Owners Email addresses – for much improved correspondence
22. 7 Governance Policies Adopted per state Colorado Statute
23. Maintained property files for every property in CB South
24. A New Entrance Sign
25. A New Red Mountain Park Sign
26. A raised flower bed at the main entrance
27. Nordic Skiing on Spann's Ranch Land
28. Nordic Skiing in the Park
29. Kids Tennis Lessons and Adult Ladder Play
30. A new and expanded playground area, with a much safer fall surface
31. 40 New Aspen Trees – mostly in the Park
32. A self-sufficient Hockey/Ice Program
33. A well maintained Website
34. A Promotional Brochure for Realtors/Buyers/Sellers
35. A Sign Code

36. Home Day Care Regulations
37. Home Occupation Regulations
38. No Burning of Construction Debris
39. Noise Regulations
40. Library drop box-coming soon
41. Community Garden - coming summer 2010
42. New Hockey Boards paid for entirely through fundraising
43. Curling
44. More lights on the Pond
45. New Nordic Grooming Equipment - coming in December of 2009
46. Institution of Surveys - because your opinion counts
47. Improved use of Park space
48. Higher County Visibility
49. Annual Picnic - community gathering
50. Annual Clean up day - consistently filling 4 dumpsters
51. Poo Fest & Doggie Bag Stations
52. Farmers Market

With no further business the meeting was adjourned at 10:10 PM.