

**CB SOUTH P.O.A. BOARD MEETING MONTHLY MINUTES:  
March 9, 2011**

**Board Members Present:** Al Smith, Cathy Frank, and Duane Johnson

**Board Members Absent:** Ty Minnick, and Sarah Baskfield.

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:** David Firmin, Angie Kray, Rich Crawford, Pat Del Tredici, and Susan Davis

**Approval of Monthly Board Meeting Minutes:** The proposed February 9, 2011 Monthly Board Meeting Minutes were presented to the Board Members for review prior to the meeting. Cathy moved to approve the February 9, 2011 Board Monthly Meeting Minutes as presented. Duane seconded the motion. Motion was approved by Al, Cathy and Duane.

**Approval of Financials:** The February 2011 financial reports were presented to the Board including: Bank Reconciliation statements for the Operating Money Market, Operating Checking, Hockey Rink, Reserve Money Market and Performance Deposit Accounts for the month of February 2011; Cash on Hand 2/28/11; 2011 Budget to Actual through February 2011 and Monthly Credit Card Statement. Chris informed the Board that the ball bearings in the hydraulic gears of the zamboni had worn out and were repaired. This happened, in-part because the Zamboni is not meant to be driven on the streets. Since we do not have a facility at the rink to store and maintain the Zamboni, this will continue to be an issue. Duane suggested that we set up a capital fund for future replacement of the Zamboni. Chris noted that this will be part of the Reserve Study that will be done this Spring. After reviewing and discussing the presented materials, Duane moved to approve the financial reports as presented for February. Cathy seconded the motion. The motion was unanimously approved.

**Unscheduled Property Owner Comment Opportunity Time:**

Chris announced that Sarah Baskfield has a new baby girl and Ty Minnick has a new baby boy.

Rich Crawford requested a follow up on the bobcat being stored at 351 Blackstock Dr. (Holgate Construction). Chris stated that he had talked to the owners, who had said that they would move it. The Board prefers that Chris give the owners an opportunity to correct the situation before sending out an official letter. The Board re-affirmed this course of action. Chris will continue to follow up.

Angie Kray requested that she be on the April Board Meeting Agenda, to address the storage of their Slide-In, Pop-up Camper, on and off their truck. The Board noted that this may become moot if they make a resolution which covers their type of camper, however, it will be placed on the April Agenda. The Board noted that at the April meeting, it should also address Sprinter and Conversion Vans. The Board requested that Chris prepare and present to the Board for review and comment specific suggested language to interpret Covenant Sections 7.01 and 18.01 before the meeting.

### New/Continued Business:

#### **2011 P.O.A. Legal Audit (Declarations, Covenants, Bylaws, etc.) Review Presentation from Denver Based H.O.A. Specialty Attorney David A. Firmin of HindmanSanchez, and Q & A for Board and Members of the Public Regarding the Legal Audit and General P.O.A.**

**Legal Issues:** Chris introduced David Firmin. He specializes in Colorado H.O.A.'s and performed a Legal Audit of our Governing Documents. He presented a written report, which is available for review on our website. He also provided a handout regarding the importance of Reserve Studies. By way of background, David noted that Original Covenants are often drafted by the Developers with a view to selling lots. Once the developer is no longer involved, Covenants often need to be revised to reflect the needs and views of the owners. The underlying reason for the existence of Associations is that municipal entities do not want to assume the responsibility for owning common areas, maintaining parks, streets and amenities and establishing the income stream to support these things. Nearly every home today is in an Association.

David went through his handout point by point. Specific to our Governing Documents (GD), the following were discussed:

- It is very important to add provisions to our GD to limit the personal liability of Board of Directors while acting in their capacity as Directors.
- Our GD should be amended such that the definitions of terms used are uniform throughout the documents.
- The prohibition of voting by proxy should be deleted. Proxies are only available for use at member present meetings. They cannot be used with mail-in ballots.
- Voting should be by Secret Ballot whenever it is a contested election or vote. The return envelope should provide for signature by the owner and the actual ballot should not indicate who cast the vote. Replacement of lost ballots would not be available under they system of Secret Ballots.
- A Board Member can give a proxy to another Board Member to vote at a meeting as long as the proxy is topic specific and specific on how to vote.
- Any action at a Board Meeting can be done without a formal meeting, although David recommended that this only be done on an emergency basis. A Board member must be able to act for the best interest of the community and not simply champion their own cause.
- Revised GD can set up Board member qualifications, and set forth that a specific number of unexcused absences shall constitute a "vacant seat".
- Because our Covenants are pre-CCOIA (Colorado Common Ownership Interest Act), we can opt into CCOIA, and where our GD conflict with CCOIA, state law prevails.
- On the issue of how to convince the membership that revising our GD is a worthwhile expenditure, he noted that if the P.O.A. is required to repeatedly seek legal counsel for advice on our existing GD, it become cost effective to change them. He suggested that revisions should be presented as an all or nothing and not piecemeal, or pick & choose. A vote could be presented as a "Do you Consent to the Revised GD?" there would be no line for a "Do Not Consent". Thus, only the yes votes would be returned and counted.
- As a last resort, when there is a failure to receive a sufficient number of returned ballots to change the GD, the Courts may intervene, and possibly sanction Amendments to the Declarations. Of note, at least 25% of all members must vote "yes" and if more than 33%

of all members vote against the proposal, the Court will not take action. Members can come to court and register their “no” votes. It is best to get a pulse of the members through the process and avoid failing at the court level, which has been known to happen.

- The process of revising the GD can take 1-2 years, and the importance of communication and community input throughout the process can not be emphasized enough. The handout sets forth detailed steps to follow if we decide to revise the GD.
- David’s firm provides the service of assisting in revising the GD. They send out a questionnaire and then provide a first draft of proposed Covenants and Declarations for a fixed fee. Revisions are then made at an hourly rate. He estimated that revising the Covenants and Declarations would cost approximately \$10,000, plus an additional \$3,000 if Court Sanctioned Amendments are required. The cost of mailing is a significant part of the expense. For the most part electronic conveyances are not yet allowed. We could check into mailing a CD, or post card and putting it on the website. Revising the By-Laws would cost approximately \$1,200-\$1,500 and revising the Articles approximately \$800.
- David recommended that we should definitely revise our By Laws and Articles now and talk up revision of our Covenants in the future. He felt strongly that we need new GD.
- The Board noted that the membership has been resistant to change lately. The motivation for change would be based on “how I want to live”, this gets balanced with the cost to do the revisions, and time members would need to put into a review of revisions. Revisions would definitely be a benefit in providing more certainty in the enforcement of Covenants consistently and equitable. The Board noted that it would have to have a strong “why” to convince the membership that this is a worthwhile endeavor.

**Board Member Training (Public/Members Welcome):** David gave an overview of Rights, Responsibilities and Duties of Board members. Duties include conducting meetings, elections, and communications in a reasonable manner. The Board is responsible for oversight of the finances and covenant enforcement. Owners have a right to expect the Board to enforce their rights pursuant to the GD. Board members have a fiduciary duty to the Association first and foremost and must never put their personal interests before the best interests and needs of the community as a whole. The Board members should conduct open meetings pursuant to a set policy, giving members an open forum (but not a free for all) before the Board votes. The Board should have a collections policy which provides certainty so that members know what to expect. The Board should be pro-active in member education. The Board should be open and up-front about issues before the Board. They should send out reminders and avoid “springing” decisions on the membership. They should get to know the problems out in the community and take member input on passionate topics. They should avoid taking action without a public meeting to the extent possible.

On the question of Conflict of Interest, David opined that a Board member should vote as much as possible, unless the Board Member has a direct, personal, conflicting financial benefit in the vote. A Board member’s duty is to give full disclosure, which the Board then reviews and makes a determination what action to take. A Board member’s duty is to place the best interest of the community first.

Al inquired whether other P.O.A.'s engage in emergency planning. David noted that this is generally not the duty of the P.O.A.; however, it would be a smart and forward thinking thing to do.

Members of the community have an obligation to help make this a livable community, by doing such things as attending meetings, checking our website, avoiding the pack mentality, keeping informed, paying dues, being a good neighbor, and abiding by the rules.

To learn more about CCOIA, David suggested visiting their website:

[www.hindmansanchez.com](http://www.hindmansanchez.com).

Regarding an Insurance Audit, David explained that his firm does this for a fixed fee and would cover such questions as coverage for volunteers, Nordic, Hockey Rink, playgrounds, fishing on the Huckleby parcel (East River), and fidelity bond. Chris explained that this was included in the 2011 budget.

Chris inquired whether the P.O.A. could set up 501(c)(3) non-profit organizations to handle the Nordic and Hockey in order to do more fundraising. David explained that a "*Friends of ...*" type organization could be established. It would require separate books, payroll etc. It might be a good idea in order to shift the liability for these activities from the P.O.A. to a separate organization. The difficulty would be segregating time spent by P.O.A. employees to the different entities.

### **Manager's Report:**

The Next P.O.A. Board Meeting Date was set for April 20 because the 2<sup>nd</sup> Wednesday of April (13<sup>th</sup>) is Spring Break for the Crested Butte Schools. Possible April 2011 Board Meeting Agenda Items Include: Lot Appearance Rules, Rules for trailer prohibition clarification, Survey Results – Goals and Vision Clarification/Prioritization, and Reserve Study Contract Execution.

Chris gave a Hockey Rink and Pond Update:

- Greg Wilson & Pinnacol: Our workers compensation insurance carrier, should cover 100% of his medical bills and 66% of his total income, including all wages, for as long as his physician says that he cannot work. Our General Insurance Carrier referred us back to Pinnacol for any claims coverage. The P.O.A. set up a Fund at Bank of the West for collection of contributions for the benefit of Greg. Greg's friends have stepped in to provide meals and other help. The response of the EMT to the accident was commendable. Chris will follow up on insurance coverage for our volunteers. We may have to discontinue using volunteers if we do not have insurance coverage available for them. We could have all volunteers sign a waiver. Although this would provide some protection to the P.O.A., it would not be beneficial to our volunteers. Cathy noted that resolution of this issue is a high priority.
- Pinnacol Assurance is raising our rates by about \$803/year. They have reclassified our maintenance employees, after receiving this claim.
- The Hockey Rink is now closed. It was a tough year due to the abundance of snow and the Zamboni breakdown. We will look into raising our rates to \$50 per session next season.

Nordic Update:

- The Gunnison Race was held in a blizzard. Next year we will look into charging something in order to cover our time and gas costs. Also, next year we will put more trail markers out.
- We have received a lot of positive feedback on the additional trails that we added this winter. We will continue to groom as long as possible, or until April 15. Graham Ullrich and Rob Mahedy have been awesome volunteers, helping to keep our Nordic trails in great shape.

Office of Resource Efficiency (ORE): We will receive a rebate of \$425 (we were in the first 40 businesses to sign up for the energy Audit with ORE. We will apply the rebate toward the new Hotsy Vent bill of \$675 (installing this vent was a report recommendation). If we save 5% on our energy bills, we will get a free membership in the CB Chamber of Commerce. ORE is trying to have more educational programs in CB South.

Other Items:

- Chris noted that he is working with the County to get a Highway 135 Directional Sign for CB South.
- We received a \$150 rebate (cash back) from the new credit card.
- The May meeting date may need to be changed as both Al and Cathy are not available.
- Chris floated the idea of selling the North Huckleby Parcel for \$150,000 - \$200,000 to finance such things as a storage garage for the zamboni at the park and actions necessary for the South Huckleby Parcel. Duane noted that without access, the North Parcel has no active benefit to the P.O.A. community, besides those 13 properties that share a property line with it. Al was in favor of a sale, Cathy was not.
- Chris will meet with the Natural Resources Conservation Services (NRCS) later in March to review possible grants for stream enhancement for the Huckleby Parcel.
- Al noted that he will be attending the CSU program which provides seedling trees.

With no further business, the meeting was adjourned at 9:35.