

3/11/2010 – **Minutes**
Elk Falls Property Owners' Association

Present:

Fred Wells
Paul Vastola
Suzy Nelson
Bob Phelps
Renaë Braun

Guests:

Bonnie Borkowski
Jane Hulko
John Carr
Con Dailey
Pat Brummett
Greg McNamara
Carol Phelps

- I. Paul Vastola called the meeting to order at 19:07.
- II. Paul explained to the guests that the meeting needed to be cut short because of other obligations that limited the availability of some of the Board members on this particular occasion and because the Board needed what could be an extended executive session to discuss both the pending court action against the Dunwodys that attempts to preserve access to homeowners through the West Gate and a new lawsuit questioning the validity of the Block 1 and 2 covenants which has just been served on the Board.
- III. Per the Association's meeting protocol, guests were allowed to make a statement and/or ask questions.
 - A. **Greg** had comments and questions regarding recent articles about the road blockade in *The Flume* and the *High Timber Times*. First, he asked when and where would the hearing be: Answer is March 24 at 1:15pm in Fairplay. He then said that although he had personally talked with Barbara Ford from the *High Timber Times*, he believed *The Flume* article was better and more accurate. He next asked about whether our old road signs still existed. It was explained that Vera had at a previous meeting admitted to have destroyed our road signs but denied knowledge of the missing large Elk Falls sign. Finally he asked if any other media had contacted us. Answer: No.
 - B. **Jane** asked if the Board had contacted either of the two names she had proposed to the Board at the last meeting and why there was no mention of Fred Skillern at that meeting. It was explained that Mr. Skillern had not been retained until after the previous Board meeting. The Board had not contacted the individuals Jane had presented after the last Board Meeting since they were presented as potential mediators and the Board had to take legal action to defend homeowner rights to utilize the roads after the Dunwodys placed the barricades. It was noted that Jane had been asked at the last meeting to contact the Dunwodys regarding a resolution to the access dispute but the Board had heard nothing prior to the boulders being placed across Juniper Road. It was noted that the Dunwodys offered to mediate with Sheriff Wegener serving as mediator. The Board has written a letter which was sent to Sheriff Wegener the morning of March 2, 2010 accepting the offer to mediate. The Board has heard back from neither the

Dunwodys nor Sheriff Wegener. Finally it was expressed to Jane that the Board was still open to mediation or some other resolution to the issue and encouraged Jane to pursue that with the Dunwodys. It was noted that the Board was forced to go to court since the Park County attorney, sheriff, and other officials all insisted that the matter was a civil matter and that, despite strenuous objection by the Board that residents rights were being ignored, the Sheriff's Department had elected to threaten enforcement of criminal trespass laws against residents should they utilize the roads as they have historically exercised for over 40 years unless the courts directed otherwise. .

- IV. **Minutes** – approval was tabled because Bob had made some recent changes at the suggestion of a Board member that had not been reviewed by the other Board members. Because of the time crunch tonight the Board tabled approval of the minutes but will attempt to approve them ASAP via e-mail.
- V. **Roads** – the “lake” at the base of Jay Buck’s driveway was causing a problem with drainage and Suzy was looking into what needed to be done. Extra sanding was done on 2/22 and 2/25. The roads were plowed last night.
- VI. The next meeting will be at the Vastola’s house on Thursday, 4/15 at 7:00PM.
- VII. Finally Board members and guests were updated on the status of the new lawsuit served on the Board yesterday. Fred Wolfe, Sam Shapiro and, Karen Shapiro claim that the vote taken to renew the Block 1 and Block 2 covenants in 1984-86 and again in 2006 was flawed. Paul talked about the care that was taken by the individuals who set up the HOA initially and how important it has been in making Elk Falls a nice place to live. Things may not have been done perfectly by the amateurs running the Board but everyone did their best. A court date is schedule for March 23 in Jefferson County. Fred noted that the suit would, at worst, only invalidate the revised covenants but not the HOA. The earlier covenants would again be active.

Another suit against the Board was filed by Ken Fleminglos for expenses associated with moving the mailboxes to their previous location which was approved by neither the Board nor the postmaster. It is scheduled to be heard Monday at 10:00 in small claims court in Park County.

Respectfully submitted,

Robert Phelps