

# **CASOLAR DEL NORTE HOMEOWNERS ASSOCIATION**

## **BOARD OF DIRECTORS MEETING**

**October 3, 2009**

A regular meeting of the Board of Directors of Casolar Del Norte Homeowners Association was duly held October 3, 2009 at 3:30PM MST at the home of Tracey Allan at 1150A Casolar Drive. The following directors, constituting a quorum, participated in the meeting: Nancy Bigsby, John Uhley, Brendan McCarthy, Tracey Allan (via phone), & Charles Reyner (joining at 3:45 via phone). Nancy called the meeting to order at 3:32pm. With three Board members on site and one participating via phone, a quorum was established. All present confirmed that they had received proper notice of the meeting.

### **Previous Meetings Minutes -**

Minutes from the last meeting were reviewed and discussed. John motioned to approve the minutes as presented. The motion was seconded by Brendan and passed unanimously.

### **Budget Review -**

John began a review of the proposed association budget for the upcoming fiscal year. He pointed out he had moved the funding for completion of the topographic & plat map to its own specific line item. Funding had been left in the budget for a professional audit of the association finances. And while the by-laws do require this audit, they also allow for waiving the audit with a vote of approval from HOA members. It was agreed that a ballot initiative to waive the audit would be presented to the HOA members. The audit funding will stay in the budget while awaiting the homeowner vote on the waiver. John also asked the board to make a review of the QuickBooks financial records and also pointed out that the budget is available on the HOA website for all to review. Tracey stated that with no substantial changes in the budget from last year that waiving the audit seemed a reasonable course of action. The discussion turned to a few line items from the budget. Nancy noted that legal funds may need to be increased and John replied that such funding could come from moving the remaining unallocated budget funds to that line item. Charles asked if tree spraying was included in the new budget and what was included in the contingency fund. John noted tree spraying was included and that the contingency fund was set to the exact amount that was spent out of contingency funds last fiscal year. Charles pressed for a little more specific comparison of last year's actual expenditures vs. this year's budget. John agreed to develop such a spreadsheet and include it in the mailed homeowner's packet that will have the budget ratification ballot in it. Nancy motioned to approve the budget for the upcoming fiscal year with the minor changes that had just been discussed. Brendan seconded the motion and it passed unanimously.

### **Homeowner's Packet -**

A discussion of the packet to be mailed to all association members (including ballot initiatives, directory updates, dues billing, news, and annual meeting information) ensued. Nancy noted a couple clerical issues that John confirmed he had already corrected. Nancy gave a review of the agenda for the next meeting. All affirmed the

agenda was appropriate. John brought up the issue of the mandate the election vote be conducted by secret ballot. He wanted to ensure secrecy was maintained while any double votes were precluded. It was decided a list of who has mailed in proxy ballots, without vote recorded, will be kept and brought to the meeting. The list will be referenced against meeting attendees to ensure no double voting occurs. All agreed the homeowner's packet was complete and accurate and could be mailed to all homeowners including the minor changes and additions that had just been discussed. Tracy motioned to approve and mail the packet, which was seconded by Charles and passed unanimously. Charles noted that it was obvious John had really put in a lot of work on this and done the association a great unheralded service. Brendan and Nancy added the web site may have been the best addition to the tools of the HOA board and members alike. All joined in a round of applause for John's efforts.

### **Pierce -**

Nancy brought up the topic of the biggest construction project in the HOA in recent times, the Pierce tear-down and construction project. She stated that the previously drafted letter had gone out to Pierce on 9/18/09. However, while the grounds around the unfinished home had improved, the site clean-up had still not yet been completed. In a discussion with the Town of Vail, Nancy had discovered that the town will take no action to revoke a building permit so long as construction work is ongoing. Tracey and Charles both expressed concern about potential HOA liability arising from the construction site. At this time, 4:31pm, Candace Cavanagh legal council for the HOA joined the meeting via telephone. She was immediately asked about the Pierce residence and had the following thoughts:

- 1) Fines can be imposed on Pierce at this point to encourage voluntary compliance.
  - a. If fines are to be imposed the HOA must send notice which has to include an opportunity for a hearing. If no HOA policy for hearing is currently in place, then the standard approach would be allowing for a request for a hearing within 10 days. If no hearing is requested in that time period, then right is waved. Candace will draft such a letter
- 2) There are materials and facilities being stored on HOA owned property. The association has the right to call the companies owning these facilities (Vail Honeywagon, Waste Management etc..) and have the facilities removed from HOA owned property.
  - a. However, under the voter easement section 6, each owner has exclusive right of use of the private driveway pertinent to their unit. More legal research and thought would have to be conducted before taking this course of action.
- 3) After a little discussion with the board it was agreed that Candace would draft a letter to Pierce calling for removal of materials and temporary facilities with a first of fine of \$100 applied. Furthermore Candace will include the options the Pierce family has and potential additional penalties they face for non-compliance.

### **Beringause Home Addition on HOA Common Property -**

With Candace involved in the meeting the topic of the addition to the Beringause residence which now sits on HOA common property was brought up. Candace had the following thoughts on this issue:

- 1) Adverse Possession. This will occur after adversely possessing property for 18 years. Quiet title action based on adverse possession will document you are the owner. Beringause could bring an adverse possession action after 18 years of their completed home addition being located on HOA commonly owned property. Every member of the association would probably have to be served to pass an adverse possession.

### **Plat Map -**

With Candace involved in the meeting discussion of the plat map was taken up. Candace had these thoughts:

- 1) *\*\*With regard to information presented on the plat map showing Subdivision improvement coverage, building envelopes, and where improvements (homes) are encroaching on HOA property\*\** The plat map would be desirable in calculating whether the association would want to convey property (adding to the declaration the approval of conveyances) or give separate encroachment easements. Through amending the declaration, the HOA could once with a 66% vote convey the property in question and then repeat that conveyance for any other cases that arise. The Beringause encroachment would have to be addressed separately from homes originally built encroaching on association property.

At this point Candace left the meeting while the board members continued on. John motioned to order Peak Land to complete remaining work on the plat map. The motion was seconded by Brendan and passed unanimously.

### **Lanscaping Issues from Beringause & Cross Construction Work -**

John presented the cost to repair the damage to sod and irrigation equipment arising from construction as \$725. This work was completed by the HOA and the amount will be billed to Beringause and Cross. He added the water main had already been repaired and only the concrete pan damage remained to be addressed which will happen in the spring of '10.

### **Russell Fence & Sign -**

Nancy brought up the issues Bill Russell had contacted the board about. The offer for the HOA to install a no trespassing sign as had been done in other instances was rejected by Russell. No sign will be installed. After seeking legal council on the matter (presented in 9/13 board meeting minutes) and making an offer to help which was rejected, the issue is now considered closed by the board.

**Qwest -**

John mentioned that he had spoken to a Qwest representative who he noticed working in the neighborhood. He received assurances that Qwest services will indeed be buried and such work finalized in the coming weeks.

**Snowplowing -**

Nancy next brought up the snowplowing contract for the upcoming season and presented a few bids the HOA had received for the work:

Scott Halstead (current plowing provider) - \$1800/month for Nov 1 thru April 30

Harry Hunt - \$7490 for 11/15 – 4/15

Shen - \$250 per plowing of the entire association grounds

Nancy commented that we really needed a set price for the whole snow season and didn't want to give up Scott because of his track record. Brendan agreed that Scott had provided great reliable service in his many years of plowing the association grounds. Furthermore, Scott knew what we expected, did most of the plowing himself, plowed more than once per day, and was easy to find and talk to. John motioned that the HOA again retain Scott Halstead for the season's plowing work. The motion was seconded by Brendan and passed unanimously.

**Insurance bill -**

John presented a bill from the insurance company for \$624. The bill will be paid.

**Adjournment -**

At 5:17pm Nancy motioned the meeting be adjourned which was seconded by Tracey and passed unanimously.