

# Hurricane Ridge Property Owner's Association, Inc.

## 2018 Annual Meeting Minutes

10/20/2018

1. Call to Order and Opening Prayer – Don Ostrowski, President and Rev. Jeff Seeger
  - a. The meeting was Called to Order at 10:14 AM by the President, Don Ostrowski.
  - b. Reverend Jeff Seeger provided an opening prayer.
  
2. Introduction of New Property Owners – Don Ostrowski, President
  - a. Don Ostrowski introduced Rich and Karen Rosencrans, the new owners of the former Kimsey home.
  
3. Meeting Quorum Evaluation and Motion to Proceed – Jim Gamble, Secretary
  - a. The Secretary, Jim Gamble, announced that 33 lots were represented in person, 32.5 lots were represented by proxy for a total of 65.5 lots. As of 10/20/2018, there are 93 voteable lots. The 65.5 lots represent 70.43% of the voteable lots indicating that lot representation exceeds the minimum requirement of 25%.
  - b. A Motion to Proceed with the Annual Meeting was made by Sam Jones and seconded by Jane Van Wyke. The motion was passed unanimously by voice vote.
  
4. Review of October 21, 2017 Annual Meeting Minutes – Don Ostrowski, President
  - a. Don Ostrowski advised that copies of last year's Annual Meeting Minutes held on October 21, 2017 had been previously distributed to all lot owners and copies were also available at the meeting sign-in table for review.
  - b. Pam Snape made a motion to approve the October 21, 2017 Annual Meeting Minutes as written. Rex Tidwell seconded the motion. The motion was passed unanimously by voice vote.
  
5. Committee Reports
  - a. Water System Committee Report – Jim Pignatiello, Committee Chairman
    - i. Jim Pignatiello provided the following report for the Water System Committee:
      1. The system is doing well and is extremely compliant with state regulations.
      2. We have a "Well Liner" and approximately 1,000 ft. of old improper pipe. If repairs are needed, it will all have to be replaced. It will be very expensive. Reserves need to be able to cover expenses. If it fails, the well will have to be re-drilled. Another 1,000 ft of pipe has exceeded its useful life. We need to be aware of this and be prepared as a community.
      3. Outside Water Hydrants - Do not leave any hoses attached to your hydrant. With a hose attached, you may still have water in the pipe and it can freeze the hydrant.

4. How much will it cost to replace the old pipe? The approximate cost of doing this work was \$100 per foot 6 years ago.
5. Some pressures reach 2,000 psi on a surge and seismic events on the mountain move the pipe where it can rub on rocks and create a leak.
6. Abrasion resistant pipe has now been developed for a much longer expected life.
7. It is possible that the entire 1,000 ft. would not have to be replaced at one time depending on the break.
8. The old pipe fittings for this pipe are no longer available.
9. We need to have reserves to cover the largest event.
10. Water Systems Records are routinely kept up as required.

b. Roads Committee Report – Bill Sanislow, Committee Chairman

i. Bill Sanislow provided the following report for the Roads Committee:

1. Gravel roads stay the same; you simply have to continue to maintain the roads.
2. Johnny Lowe is doing a much better job than what we had before.
3. Lowe does not think we need more than 5-6 loads of gravel in the spring.
4. There are no major areas that need additional attention.
5. Road Maintenance this year has been less than normal.
6. No culverts replaced this year; still need to replace 4-5 old metal culverts
7. Trimming of the side of the road? Lowe can no longer clean the ditches properly unless the trees are cut back from the road.
  - a. The current grass mowing contractor may be able to do the work this winter. Cuttings will be chipped instead of being hauled off.
8. There has been no discussion with the timber contractor to date; Frank Queen will advise on how to control the land owner.
9. Why are the cones there? Who is moving the cones?
  - a. We are not sure who has moved them.
  - b. Please abide by the lanes and stay as wide as you can on a curve to preserve the road.
  - c. It is intended that you drive to the left on curves instead of the right and abide by the 15 mph speed limit.
10. Can the brush be cleared on the side of the road in the curves?
  - a. We may need to get a sub-contractor with a side arm mower.
  - b. This work cannot be mixed with regular lawn maintenance.
11. Can we trim some trees off the side of the road to provide more sunlight to “Freeman’s Glacier”?
  - a. The sun may be behind the ridge in the winter when it is most needed.

ii. Bill Sanislow requested that the HRPOA Attorney, Frank Queen, lead a Timber Cutting Discussion as follows:

1. Mr. Queen has reviewed all of the Timber Agreements.
2. The property used to be owned by the Hurricane Ridge developer.

3. When the land was sold, they reserved the rights of the road to the 190 acre track.
4. In the timber deed to the harvester, the rights to use the roads was also retained.
5. The maps, deed documents, and written agreements clearly indicate that Johnny Lowe as the new property owner and the timber harvesting company have the right to use the HRPOA Roads to harvest the trees on the former Cato Property.
6. Lowe and the Harvesting Company are responsible for a Road Impact Fee and to restore the roads to their previous condition.
7. It is suggested that HRPOA initiate talks with Lowe and the Harvesting Company.
8. Document present road conditions with pictures and video.
9. Complete the documentation as soon as possible after the roads are groomed this month, immediately prior to the start of harvesting activities, and periodically throughout the harvesting. Pay particular attention to the switchbacks and very steep areas.
10. In lieu of a big fine to Lowe/Harvesting Company, work out a working agreement for remediation every 90-120 days or more often as needed.
11. Develop a cycle to Document, Review, and Remediate.
  - a. Develop a checklist to document the condition of roads, ditches, and margins.
  - b. Ensure you have a regular inspection and repair model.
  - c. Place fresh gravel regularly as needed.
  - d. Have the Documentation, Review, and Remediation Plan build into the Harvesting Company's Logging Program.
12. As far as we know, there are no escrows from the timber contract for roads. It would be great to have; but the experience is that this does not happen.
13. If the roads are not fixed, then we will really fix the roads at their expense and they will usually respond.
14. Safety is a problem; logging trucks cannot stop. Trucks cannot back up and it is almost impossible to pass.
15. Can we force them to have a flagman? Talk to them about the scheduling of their out trucks. They will use short trucks and marshal material at the bottom of the hill. Negotiate with the harvester. The 2 mile route should take 10 minutes. A flagman is the best way to do it. Signage of when they are running is another great idea.
16. If the logging company does not agree with this, what can we do? The easy part is to have them pay to fix the roads. The hard part is to have them alter their work rules. Making them aware of these issues, they may be willing to have an escort truck. We cannot make them do it, but we can sue them if they do not mitigate their reasonable risk.
17. Current timber contract gives them two years. Typically, this will be a one year harvest. Loggers will work on a daily basis most likely.

18. Hurricane Ridge Development is an LLC that could just go away. The key to it is an early discussion to get a mechanism in place to manage it.
19. Injunction Relief is a possibility if it gets really bad.

c. Security Committee Report – Bill Sanislow, Vice President

i. Bill Sanislow provided the following report for the Security Committee:

1. The Board formed the Security Committee in order to separate the gate from the Roads Committee to manage the gate.
2. One broken chain was the only gate problem we've had this year and it was repaired within a few hours.
3. At the gate, AT&T will not provide a land line, cell phone service is too weak to work, and we cannot get an internet signal from SkyRunner because there is no direct line of sight. Recording is the only method available to monitor the gate.
4. Consider installing a camera at the Gap by Rex Tidwell's house. 90% of the homes are above the gap. The Board of Director's will consider this. It was suggested that HRPOA reimburse Rex Tidwell during the winter months for his additional internet expense.
5. Posting of the gates by HRPOA and the surrounding neighbors with the purple markers has helped to stop unwanted traffic.
6. A trail camera is a great way to capture events and is a good cost-effective solution to record gate activity. Don Williamson agreed to assist on the Security Committee.

d. Architecture Committee Report – Jerry Thigpen, Committee Chairman

i. Jerry Thigpen provided the following report for the Architecture Committee:

1. The Williamson and Rush residences have been remodeled.
2. Jody Seward is continuing to complete updates on her home.
3. All projects are going well.

e. Treasurer's Report – Sam Jones, Treasurer

i. Sam Jones provided the following Treasurer's Report:

1. Currently there is \$70,130 in the Operating Account with \$100,727 in Water and General Reserves
2. We should add \$5,000 - \$10,000 to Water Reserves and \$10,000 - \$15,000 in General Reserves at the end of the year.
3. Currently there is approximately \$1,000 left in Account Receivables.
4. We continue to apply liens to all the unpaid lots.
5. Haywood County owns 3 lots and Mr. Queen thinks they may be responsible for the POA fees for the county owned lots.
6. \$32,550 is in the Pavilion Fund currently.
7. There will be an assessment for next year; but the board has not decided whether it will be the same as last year or not.

6. Nominating Committee Report & Election of Board Members – Don Ostrowski, President and Rex Tidwell, Committee Chairman
  - a. Don Ostrowski asked if there were any nominations from the floor for the two Board of Directors slots and no nominations were provided from the floor.
  - b. Sam Jones moved to adopt the nominations from the Nominating Committee to include Jim Pignatiello and John Rush for three-year terms. The Motion was seconded by Carolese Gullatt and carried unanimously by a voice vote.

## 7. Old Business

- a. Proposed Motion #1 from the Architecture Committee for discussion and voting as follows:

Motion #1 from Architectural Committee to be submitted to the HRPOA For APPROVAL at the 2018 Annual Meeting

### MOTION #1

Whereas the Developer of Hurricane Ridge originally presented every buyer of property a brochure stating that several large lots had been set aside for POA recreational and/or picnic use and that the Developer deeded said lots to the HRPOA for this purpose. And;

Whereas the HRPOA Restrictions state in Section 24.b that "Membership in the Association entitles the owner of any lot...to the use of all recreational or other facilities which may from time to time be constructed, maintained and operated on said properties by the Association...The judgment of the Association as to the necessity or desirability of the installation or construction of any recreational or other facilities for the use of the members of the Association shall at all times be final and conclusive....". And:

Whereas the HRPOA By-laws lists, among the powers and duties of the HRPOA Board of Directors: to "...improve the community property...", to "...keep and maintain separate accounting for capital improvements including construction of recreational facilities..." And:

Whereas at the 2016 Annual Meeting, a motion was unanimously passed stating "that the membership at this Annual Meeting authorize the Board of Directors to pursue the establishment of a structure on the POA property lot to be used for recreational activities. Only privately solicited funds be used and no funds from the POA be used." And:

Whereas a majority of the membership in attendance at the 2017 Annual Meeting voted to proceed with plans and pricing to build a multipurpose facility, also referred to as "Pavilion", to be paid for with at least 50% voluntary contributions from property owners. And:

Whereas the Architectural committee has prepared plans for a building, which meets the stated needs for a multipurpose facility, requiring lowest probable cost for maintenance; has received an acceptable bid from a reputable builder familiar to many property owners; is contacting all property owners (lot or building); and has raised or been pledged thus far the estimated cost of \$30,000 for the purposed Pavilion, and surrounding grounds from voluntary contributions:

**We, the Architectural Committee, propose to move that the construction of the proposed Pavilion, the cost of which will be paid by the voluntary funds already solicited, be APPROVED by the Association; that the HRPOA Board of Directors in a timely manner upon passage, execute a contract for construction of said Pavilion; and that construction begin as soon as possible.**

- George Nottingham attempted to move on Motion # 1 and was interrupted by Frank Queen. Frank Queen advised that since Motion # 1 was published in the agenda and was presented by a Committee, it is not necessary to formally make the motion or have a second to the motion prior to discussion.
- Frank Queen, HRPOA Attorney, provided the following information concerning Motion #1 so everyone in the room would have the same information:
  - I looked into the restrictive covenants for the board. The issue is using POA lots for the purpose of a pavilion. When the developer conveyed lots to the association and the water system, the lots are governed by the restrictions. The main restrictions have these provisions that affect the construction of a pavilion on Lot 51:
    - Section 2. Use: None of the lots or improvements thereon shall be used for anything other than single-family, private residential purposes.
    - Section 5 (b). Structures: No structure shall be used or occupied until water and sanitary sewerage disposal facilities are completely installed and operable.
  - Can you build something besides a single-family residence on the lot? It is my opinion that you will need to amend the restrictions in order to do so. You need to have an agreement that amends the restrictions for certain lots. Otherwise, any other lot owner could bring a lawsuit for any use other than a single-family residence.
  - This does not change anything about this vote. You still have to have this vote for Motions 1 and 2. However, you may not act on the outcome of the vote unless and until the restrictions are changed.
  - Motion 1 – Vote yes or no by paper ballot
  - Member Discussion is as follows:
    - George Nottingham – I do not agree with Queen but the committee is fine with Queen’s opinion. In 2016, a motion was made and passed unanimously to pursue building a pavilion. Most PUDs have a community facility; HR did it backwards. The committee has worked for 2 years and would like to have a celebration in a pavilion at the gap.
    - Joe Wall - There is personal liability; keep that in mind. This should be Private Funds only; motion 2 is to use POA funds. This is opening us up for a lawsuit. It is cheap to file a suit; expensive to defend. We simply cannot afford it. I would like to make the following motion:
      - No legal expenses in regard to this structure should be paid from either POA operating or reserve funds, in perpetuity.Hearing no second to the motion, the motion remained pending.
    - Gus Beckstrom - What scares me the most is noise. Most people bought for the peace and quiet of the mountain. I can hear people talking, dogs, chain saws, all over. My problem is it being used for recreation. I am not against a pavilion for get togethers; but I have a real problem with it being used as a recreational facility. I do not want to hear unsupervised children and boom boxes. Have you brought the ceiling down? (Ceiling height has been reduced to 10 feet per George Nottingham.)

We hope that it will be used for recreation such as shuffleboard and ping pong. There is nothing for little folks to do on the mountain. Why do you want to impose noise on me? There are four other homes that will have to put up with the noise. It is a real concern for the people that live around it. It should not be used for the purposes of recreation.

- Francis Sanislow - Everyone that bought a lot or home bought it for peace and tranquility. We bought here to get away from the amenities of a city. In the beginning, it has moved from voluntary contribution to now where the POA is to fund part of it. It is unfair and unreasonable to ask people who do not want it to have to pay for it. It must have running water and restrooms. No one in their right mind would drive kids or old people to a place where there are no restrooms.
- John Rush – This is why we have 2 motions. I bought here for the quiet and the community. I am all for it with private funds. POA should not be responsible to build it. Ongoing expenses should be paid for by the POA. I am not sure how you fix having no recreation.
- Gus Beckstrom - Improvements and additions will be controlled by the Board going forward. Once we build it; we own it going forward.
- Jayme Palermo – Whatever we put up will matter to our property values. Whatever we do should add to our property values. Things happen on a mountain and we should be mindful of our expenses.
- Carolese Gullatt – Usually there are not a large number of children on the mountain. We always need to have a place to gather together as a community.
- Shelley Thigpen – I grew up on this mountain. I wish that I would have had a place to play on those rainy days. We want the children to have something better than we had. It is not for the adults; it is for the children growing up. Think about your children and grand-children.
- Joe Wall – The structure must have water and a sanitary sewer.
- Sam Jones – If the motion passes, there is work to be done to amend the restrictions.
- Francis Sanislow – Why not just use the fire station facilities? What is the hardship of just bringing them here?
- Phyllis Gamble – I am quoting from Mr. Lasater’s letter: “Number 4 – If you continue with the project, to protect yourselves, you MUST hire a good, licensed professional engineer with adequate (your call) professional liability insurance. I’m sure George will agree.” Are you using the services of a Professional Engineer and a licensed and insured contractor? George Nottingham stood up and asked: “Who asked that question? We are using steel; not wood trusses that sag. I called the engineer recommended by Bob Lasater and he recommended to add an underlayment to the roof.” Phyllis Gamble then asked a second time whether they were using a Professional Engineer and a licensed and insured contractor. George Nottingham replied that “I am a Professional Engineer. The contractor is licensed to a point”.
- Melanie Seeger – Now there are big conflicts on the mountain. People come here to get away from conflicts. It makes me anxious that there is not a community spirit. I see that there will be an ongoing source of conflict.
- Pat Wall - The conflict takes away the spirit of the community.

- Jeanne Nottingham – Every “I” has been dotted, every “T” has been crossed. The committee has worked so hard. Everything has been negative. We have drawn upon the generosity of families to come together in friendship. This is to draw us together and to teach us to be friends and have a meeting place. Forget the children; they will be hiking. Come together in love and fellowship.
- The question was called by Sam Jones, paper ballots were handed out, and the ballots were counted by Jim Pignatiello and Jim Gamble
- Results of the paper ballot vote are as follows:
  - The motion carried with 34 votes in favor and 33 votes not in favor.
  - **NOTE – After the meeting, a validation ballot count revealed that one ballot was not included in the original count. During the meeting, it was reported that there were 34 votes in favor and 31 votes not in favor of the motion. The correct paper ballot vote is 34 votes in favor and 33 votes not in favor of the motion.**

- b. Proposed Motion #2 from the Architecture Committee for discussion and voting as follows:

Motion #2 from Architectural Committee to be submitted to the HRPOA For APPROVAL at the 2018 Annual Meeting

**Whereas support for amenities at the Pavilion including electricity, bathroom and kitchen, has been expressed; AND Whereas the Architectural Committee has consulted with the HRPOA Treasurer, we, the Architectural Committee, propose to move that the above listed amenities be built; the cost to be paid using private funds remaining from the building of the Pavilion and the use of HRPOA funds up to, but not exceeding, the amount of \$18,000.**

- Frank Queen advised that since Motion # 2 was published in the agenda and was presented by a Committee, it is not necessary to formally make the motion or have a second to the motion prior to discussion.
- Member Discussion is as follows:
  - Sam Jones - There are about \$50,000 in the general reserves. \$10,000 -\$15,000 is to be added at year end. I think we can afford it but if we have an emergency; it will go out the window.
  - Gus Beckstrom – The potential \$200,000 for a pipeline frightens me. If you want to have a potential big assessment, go ahead. Keep this in mind.
  - Joe Wall provided a financial analysis indicating the Reserves cannot accommodate funding part of the pavilion.
  - Wayne Gullatt– If we add a bathroom, we may get more donations in.
  - Sam Jones – We can take \$18,000 from the Reserves.
  - Joe Wall- Reserves are there to keep the POA solvent. We are sitting with a huge potential liability. (At this time Joe Wall and Sam Jones had a private conversation where Joe Wall provided Sam Jones with additional financial analysis.)
  - Sam Jones - I will vote no on Motion 2 because it would not be prudent to do so.
  - Katie Lindley – The pavilion will never be used for the Annual Meeting.
- The question was called by Sam Jones and George Nottingham, paper ballots were handed out, and the ballots were counted by Jim Pignatiello and Jim Gamble



- Results of the paper ballot vote are as follows:
  - The motion failed to carry with 22 votes in favor and 45 votes not in favor.
  
- 8. New Business
  - There was a question about changing the restrictions as to whether it requires 51% of all lots or 51% of the voteable lots. Frank Queen to research and advise the Board.
  - Frank Queen advised that there two ways to change the restrictions:
    - Circulate an amendment to the restrictions with a signature page to the actual owner; give them a deadline to respond.
    - Schedule and conduct a Special Meeting.
  - Sam Jones made a motion “That the board move immediately to consult with Mr. Queen to amend the restrictions as soon as possible.” Jeff Seeger seconded the motion and it passed unanimously by voice vote.
  - The Architectural Committee (Jerry Thigpen) made a motion to “Build electricity, bathrooms, kitchen and septic amenities using donated funds only.” The motion was seconded by George Nottingham, paper ballots were handed out, and the ballots (Motion # 3) were counted by Jim Pignatiello and Jim Gamble.
    - Results of the paper ballot vote are as follows:
      - The motion carried with 35 votes in favor and 13 votes not in favor.
  - Joe Wall moved “That we use no HRPOA operating or reserve funds for legal fees resulting from the construction of a pavilion”. Gus Beckstrom seconded the motion.
    - Member discussion is as follows:
      - Legal question as to whether it be binding on the BOD.
      - I do not think we need to spend another \$45,000 on legal fees.
      - Unless we have done something procedural incorrect, how is someone going to file suit against us unless they just do not like the decision?
    - The question was called, paper ballots were handed out, and the ballots were counted by Jim Pignatiello and Jim Gamble
    - Results of the paper ballot vote are as follows:
      - The motion failed with 9 votes in favor and 32 votes not in favor.
  - Frank Queen advised that the “Members voted to build a pavilion with voluntary contributions only. Nothing can be done until the Restrictions and Covenants are amended to allow building of a pavilion.”
  
- 9. Adjourn
  - At 1:23 PM, Sam Jones made a motion to adjourn the meeting. The motion was seconded by Carolese Gullatt and passed unanimously by voice vote.

Respectfully submitted by Jim Gamble, Secretary, HRPOA