

Edelweiss Maintenance Commission
Board Meeting Minutes for August 1, 2016

1. Call to Order: The meeting was called to order at 6:00 PM by President John Kirner. In attendance were John Kirner (Board President), Alan Fahnestock (Vice President), Steve Ralph (Secretary), Chuck Armstrong (Treasurer), Will Fohrell, Josh Jankowski, Sern Watt, and Bill Craven. Also in attendance were Dick Volckmann (General Manager) and Craig Hook (Operations Manager). Absent was board member Kirk Schumacher.

Guest: Ms. Pat Leigh, Member of the CC&R Committee.

2. Approval of minute: Minutes for the Annual Meeting (May 28, 2016) were approved by a voice vote.

3. President's Report: John Kirner discussed a few items including the opening of the new pool, issues with the road system and neighbor to neighbor conflicts. These are discussed in more detail below.

4. Treasurer's Report: Treasurer, Chuck Armstrong provided an overview of the current profit and loss statement and balance sheet (copies were handed out and will be posted on the website). Financially, the EMC is in good shape in terms of expenses and income. And Chuck anticipates no issues with meeting our current and anticipated upcoming expenses. Nearly all members are current with payments to the pool fund. Those few who are in arrears have been contacted for payment. Chuck has had discussions with Farmers Bank in terms of transferring signature authority. He also suggested that we move our money from Capital One Bank, which can be difficult to work with. John also mentioned the idea of having a rainy day fund or line of credit to address any large unexpected circumstances.

5. General Manager's Report: Dick Volckmann handed out his report including discussion of:

(a) *Pool opening and operation* – The pool was successfully opened in early July and is operating well. Our community members seem to be enjoying it.

(b) *Pool assessments* – While most community members have paid their respective pool dues, there remain two people who have not paid anything towards their 2 year assessment, and two who are one year behind. Despite that, we have adequate funds to repay the loan to the sewer fund, as expected. There have been a few cost overages associated with the pool construction, but we have sufficient funds on hand to cover those costs. Specifically, we had budgeted \$292K for the pool. Excavation costs ended up being twice what we had budgeted, due to unexpected circumstances and additions as construction proceeded. We spent an additional \$11,000 for a draft line extension and fire hydrant, and miscellaneous items. The pool contractor, KrisCo charged us \$4,200 more because of some additional and unanticipated form work. All told, we are over the original estimate by about \$26K, which is less than 9% of the original estimate.

Starting in April of next year, we will have satisfied the interest payments on our loan from OCEC, so we'll have about an additional \$900/month to add to the repayment of the pool.

(c) *Road repairs* – Repaving of the road surface at the entrance to the community will begin in a few weeks. The plan is to widen the exit area to improve the sight-line. Also the blind curve on Homestead Road will be cut back and the pavement extended approximately 100 feet past the current pavement end. Our road fund is well positioned to handle these expenses. The road will NOT be completely closed as the work proceeds, rather one lane will be paved at a time.

The current road surface on Highland and Homestead are in pretty rough shape, but with rain anticipated for this week, Craig thinks he can do some re-grading to minimize the wash boarded areas to some degree.

(d) *Nightly rental* – The Board discussed the issue of nightly rentals in the community. Some homeowners have been renting out their properties for many years and that use is grandfathered in. With the increasing popularity of Air B&B and VRBO this could become a much more common practice, with

implications for the single family home nature of the Edelweiss Community. Such uses of properties is in violation of our community covenants and bylaws. The County Commissioners just passed a policy to not allow any more nightly rentals in the upper valley unless they are part of a planned development built specifically for that purpose. Our attorney, Michael Brady has advised us that our CC&R's do not allow such use, but we have little enforcement authority to prohibit it. Those discovered operating as B&B's will be sent a friendly letter reminding them that this short-term rental use is not authorized by their implicit agreement with the CC&R's.

(e) *Water meter installation* – After three years of effort, all required individual water meters are now installed on residences. Some frost free hydrants on vacant lots are not yet metered. There was some discussion about what metering information will be collected and how that might be analyzed. Monitoring consumption use at individual lots can help detect leaks in the system, and help quantify community annual consumption rates. The primary cost of providing water is the electricity to power the pumps to refill the reservoirs. In the future, the State may argue for an upper annual limit on our water withdrawal from community wells, but that is unlikely to happen in the short term. Understanding the water use profile of the community will help us ensure that our water right remains adequate for future build out.

6. Discussion topics:

- Update on CC&R's and Bylaws – Pat Leigh attended the meeting to provide her perspective on the status of the CC&R updates and Bylaws. Below is her report.

Covenants and Bylaws Committee Report to the Board:

The Covenants and Bylaws Committee was formed in 2013 when Lisa Tabbut and Coventry Jankowski formed a Committee at the Board's request to investigate the possibility of amending the *Covenants and Bylaws* in an effort to make it easier for the Board to enforce the rules and meet the needs of the community.

Pat Leigh was the only member of the Committee able to attend this current EMC Board Meeting. She asked that the Board make a decision as to whether the Committee was needed for any further research or whether we should consider our work completed. Leigh reported that various efforts had been made by nearly every EMC Board of Directors since the beginning of time to make changes to the CC&Rs and Bylaws. These Boards had sought legal advice on the Bylaws five different law offices, resulting in no significant changes until 2001. Those changes are documented in the binder described below.

Leigh explained that she had prepared a binder containing the complete history of work done by various EMC Boards of Directors on the CC&Rs and Bylaws for each member of the Covenants and Bylaws Committee. She did this in response to the Board's decision to seek a second opinion on attorney Michael Brady's 2015 opinion letter. Leigh wanted board member Kirk Schumacher to have a complete and accurate record of all historical documents and filings with the County so that the attorney would be comfortable working with what he provided. A copy of this binder will be left with the current Board of Directors for safe keeping.

Schumacher sought the advice of Riddell Williams, P.S., a Seattle law firm, specifically, attorney Ms. Rachel Schaefer. Schaefer's opinion letter is on file with the EMC Board. She advised that:

1. The CC&R's require an affirmative approval of 80% of the current members of EMC to be amended. The amendment must be "duly recorded" and must be **notarized** by all those signing the amended document. It was noted that although it appears the members must all sign the same amended document, it could be accomplished by each member signing and having notarized a separate ballot to be kept in the EMC records with just EMC executing and recording the final amendment on behalf of the members once the sufficient threshold has been reached.
2. The EMC can rely upon the current Bylaws as being properly approved in 2001. Although there are some inadequacies in the information provided in the May 2001 Annual Meeting Minutes approving the current

Bylaws, there is sufficient information to conclude that the Bylaws were properly adopted after providing notice to the members. In addition, the statute of limitations to bring a claim regarding the insufficiency of the vote to approve the Bylaws would likely apply and bar such claim.

The Board's ensuing discussion led to the decision that they would attempt to deal with matters in accordance with the existing Covenants and Bylaws which give the Board the authority to assess the necessary fees to operate and maintain the infrastructure needed by and for the safety of the community e.g. water, roads, sewer, and other matters as they arise.

This summary and discussion lead to a number of ideas being advanced about what other services might be appropriate for the community. One idea discussed involved the shared concern and responsibility to take actions to reduce forest fire fuel loads and "Firewise" as much as possible those lots with structures and those lots that are unoccupied but where dense vegetation creates a potential fire hazard. Further discussion will follow in future meetings of the board.

Fire evacuation plan for Edelweiss – Alan Fahnestock suggested we have a plan in place to affect an orderly and efficient evacuation plan in the event we need to do it; establish safe zones to gather at; egress points. Josh Jankowski mentioned the triage drill in Pine Forest last week. In this drill, Fire District 6 personnel go house to house to assess the potential to defend the structure during an approaching wildland fire situation. Such a triage drill could be arranged for the Edelweiss Community, and residents and Board members could be invited to observe. These drills involve a quick assessment of the fire prone condition of individual homes, and recommendations to reduce that risk.

Recreational use of Edelweiss Roads - With respect to the continued use of community roads to access FS Rd. 100 for recreation purposes by non-residents, and the wear and tear that results on our roads, Alan suggested that we post better signs to say that there is no allowed public access to National Forest roads and the mountain biking trails found there. He asked for support for this from other board members. He made a motion which was seconded, and will be taken up at the next board meeting for further action.

New road signs in reflective script – There is some interest in replacing the current road signs in the community with more visible reflective road signs that will allow emergency responders to more easily find individual homes. Sern and Alan will look into this and what it might cost. The Fire District 6 does provide reflective and highly visible house number signs for a nominal cost.

Neighbor to neighbor difficulties – There has been a troubling increase in reports of conflicts between neighbors in the upper community, largely precipitated by one individual. Many adjoining neighbors are quite upset by an escalation in conflicts with this individual, who exhibits aggressive and rather intimidating behavior. Dick and Craig have had discussions with law enforcement, which will be followed up by a letter from Board President John Kirner. Neighbors have been advised that they can now email the County Sheriff Deputy Kinman directly to alert him to inappropriate and threatening behavior directed at them. We had some discussion about what options there were for improving this situation. It was suggested that we document these behaviors and convey them to the proper authorities. It was suggested that as a Board we approach the Deputy Sheriff Kinman, expressing our concern and asking him what tangible actions we can take, or how can we help get this situation resolved. We are considering going directly to the County Sheriff and County prosecuting attorney for their advice and intervention.

7. New Business:

Josh Jankowski noted that there has been a motorhome parked on a residential lot on Homestead Drive that has been there longer than 30 days, in violation of the CC&R's. They need to be notified again to remove it.

8. Next EMC Board meeting is scheduled for the evening of October 3rd at 6 pm.