

June 8, 2013
Bi-annual POA Meeting
1 pm at Glenwood Ruitan Building

-POA President, Stephan Amsbery, opened the meeting thanking all in attendance for being there and acknowledging the fact that it had been 10 years since the first meeting. He then spoke to the fact that this meeting had a lot of topics to cover which would generate many questions, so he would like to limit questions/responses to 3 minutes when possible.

-First business action: Approval of previous meeting minutes. The minutes are available on our website. No objections to approve minutes were voiced and motion to accept minutes was carried.

-Treasurers Report: POA Treasurer, Phyllis Howell, was not in attendance. Stephan presented the report she had provided. Copies of financial statement and budget reports were provided to those in attendance. We did not have a trial balance to provide at meeting. This has been done but was not provided for today's meeting by Phyllis.

Financial statement, trial balance report (year to date), last years budget and proposed new budget will be available on website.

Joan Messner questioned how and where certain funds had been spent. Stephan apologized for not having the trail balance available, again, that would show exactly how funds were spent.

Rich Messner requested a ball park figure on how much money has been spent for attorney fees to pursue the case against paving company. Stephan reported that slightly less than \$3,000 has been spent so far.

Jan Dokter noticed that the current board has spent less on roadside mowing. This is due to a new company providing services for us that is much cheaper than old company. He asked if the board had requested more frequent additional mowings due to the savings. Stephan responded yes they are scheduled to do a second mowing in the next 1-2 weeks. The new company is almost \$300-\$400 cheaper per mowing and they have newer equipment that can handle our needs. In early spring they were brought in to do the scheduled every other year boom mowing. We had hoped to do boom mowing in the winter but the previously hired person had equipment failure. The new company has produced and sent a General Liability Certificate via email from Farm Bureau Insurance Company. The current company is called Ground Control and they also service communities like, Black Forest, on Lake James.

Bob Hayden questioned the State/Federal Income Tax section on the proposed budget. There is no money budgeted in this section due to the fact that the current board does not anticipate the sale of the lot owned by the POA. The lot has been reduced down to its tax value and the board is willing to go below tax value in order to sale it. He also questioned the Property Tax section of budget had decreased by \$75.00. Stephan explained the decrease was due to the fact that we only pay a tax now on the 1 lot we own. The board closed on Lot 69 in 2012 and taxes were paid last year on this lot.

-General Status: On May 5, 2013 the mountain received 9.5 inches of rain. According to the National Weather Service McDowell County has received more rain than when hurricane Ivan came through. This rain fall damaged several sections of our roads. Many state roads, including interstate 40 and Hwy 221 by- pass, had sections of road wash out during the 5-5-2013 storm. The board has removed several large and dangerous trees between the Fitzgerald's and Messner homes. Bill Hawkins debated the word "removed" stating the tree sections were still laying on the road side. Stephan reminded him that the sections were left because many home owners requested, at the last meeting, that any cut trees be left for them to remove and use as fire wood. At this meeting the same home owners now are complaining that the wood is an eye sore. Stephan stated we would be happy to roll the wood over the side of mountain. Peyton Miller, Member at Large, has patched several cracks/holes on the road. Originally the POA had opted to not do any crack/hole patching in light of the paving law suit and felt we shouldn't spend money right now. When fall gets here and if the law suit has not been resolved we will address the cracks then.

The section of road between The Howell's and Carley homes was moved in by 3 feet due to the road sliding away at the guard rail. The HOA has been aware of this potential slide for almost 10 years. The choice to cut into the mountain 3 feet was done due to cost and the amount of rock in the area. If we cut further in than 3 feet much heavier equipment would be needed and trees would need to be removed. The entire length of the problem was not cut due to 2 driveways and utilities in the way. (The POA would need to pay for relocation of utilities and regrade both driveways.)

Glen Vess was called in late November and confirmed in December to mow mountain. He brought equipment up in March which was defective and the equipment sat broken down on the mountain for quiet awhile. Mr. Vess was trying to repair the equipment but in June decided the equipment could not be repaired. The board began to search for a company to mow the mountain. Chris Amsbery located the number for the company who maintained the Black Forest community and they began boom mowing within a week. Because we waited so long for Glen Vess to repair his equipment, the company that was set up to clean out ditch lines and culverts could no longer come out as scheduled. The board was unable to find anyone to clean culverts. When the mowing is done in the next few weeks we will try to locate the culverts on mountain and hope for resident volunteers to clean out culverts along their property.

There was a "Meet the Gate Session" with Alan Ledbetter to familiarize other residents on the mountain on the general gate mechanics.

-Southeastern Paving Litigation: Letters and emails were sent out to spend \$10,000 to pursue litigation. The final vote by HOA was 32-YES 2-NO. All home owners were either emailed or US mailed a letter requesting their vote. Stephan explained that he could not go into the current state of litigation because it would violate attorney/client privilage. The main reason behind his candor is due to the fact that the suit is going into court ordered mediation and the mediation date is due to be completed in December. If mediation fails we will go to court sometime in February. Just yesterday Stephan and our attorney meet on the mountain with Mr. Shipman and his attorney. Mr. Shipman wanted to voice his concerns about the lawsuit and he and his attorney went around the mountain pointing out areas of road bed failure. The board's contention is that we paid for 2 inches of asphalt and we were shorted by roughly 25%, not the road bed failure. Our attorney even picked up pieces of asphalt and showed them the very thin asphalt. Stephan brought up the information other pavers have given the board, that if there is a crack in the pavement due to thin pavement water will run into the crack and undermine the road bed. The board hopes to settle out of court and has been informed that Mr. Shipman is also going through a divorce. In light of this the mediation with Mr. Shipman will happen before his divorce hearings. One year ago Marie Biggs checked for any liens in Henderson County against Mr. Shipman and we also checked with the Secretary of State for liens, there were no liens at that time. If we go much further with the case we will need to explore this again. The board fears that Mr. Shipman will claim that we are filling a warranty claim, of which we are outside that date. We are contending that the previous board sent letters to Mr. Shipman via certified mail before the warranty period was up stating there were already problems that needed to be addressed. Mr. Shipman was back on the mountain performing repairs before the warranty period was up and we have the checks and letters to prove this. Our attorney is hopeful that since we have the proof it looks promising for us. At the meeting today we provided several sheets showing where the current board took more core samples around the mountain and a majority of our core samples are 1 inch and less. We measured 72,000 feet of road total and took over 100 core samples. This information has been given to our attorney. Also provided today at the meeting were previous engineering reports done by previous boards. Chris Amsbery also contacted landslide experts at the Department of Agriculture and Department of Conservation earlier in the spring. She was hoping to obtain grant money to go toward road repair but because we have private roads this will not be a possibility. Also, in NC the county roads are maintained by the state and not the county. The current board is planning on going to the county and Crown Castle to advise them that if our main road fails neither agency will be able to access their cell phone towers and we will request monetary funds from them to help maintain the road. We will approach the county due to the fact that the tower is the counties 911 tower and the Western NC Police repeater. We have also discussed with the Conservation department their use of agencies and experts in shoring up road banks. They answered that they use internal people but they advised we contact and use a reputable engineering company. Stephan advised them that currently we are using Kessel and they stated they were a very good group. Ron Anderson is one of the most respected Geologists in the state. Kessel is compiling a list of groups who specialize in stabilizing slopes to send to the board.

-Road Issues and Corrective Actions: The section of road between the Howell's and Carley's home is sliding away. The current board has spent \$6,000 in repairs and A-1 paving is dumping several tons of mining waste to temporarily stabilize the slope. The board recognizes that this is not a permanent fix. Ron Anderson recommended this and it will cost \$1,000.

The current board would like to introduce a road failure guideline. #1 If a house is completely cut off and the resident have no way to get off the mountain we will spend what ever it takes to correct the road. #2 If the failure costs more than \$5,000 to repair and the home/resident is not completely cut off we will consult the membership for direction. The board would like to maintain a \$10,000 reserve for repair in this situation. We wanted this guideline because we have very limited funds to repair road failures. The board feels this is a reasonable guideline to follow for now due to the amount of money we have to spend on failures.

Bill Hawkins questioned the current board's decision to use mining waste to stabilize the current slope failure. He stated that a previous engineer advised that this material provided no permanency and we were wasting money by doing this. Mr. Hawkins stated our guidelines were reactionary, not proactive and responding out of a bigger plan. He proposed that there be a road committee established that consists of non board members to study the information we have and develop a plan. He felt that a special assessment or due adjustment would be needed. Stephan advised Mr. Hawkins that the current board has a plan in place which is, #1 The board contacts professionals to advise in slope stability. They will develop a plan on which areas need to be addressed first and the funds that will be needed. We have already contacted Kessel Engineering who will provide those names. The board will give consideration to local groups if they are contracted certified. The board will not appoint a committee at this time. When the board has compiled all the information they will report back to the membership.

Mr. Smalley stated his thanks to the current board in their efforts. He addressed his concerns that in previous years the road bed was not graded properly. Stephan advised that this was subbed out to J. Cook and we are past our warranty period and we can't persue this.

Stephan reminded the residents at the meeting that our road issues are not new because we had failures within months of the development being handed over to us from Timberline. All past and present engineers have stated we have issues with our roads and no other board has proactively repaired these issues. Now we are at the point where we are forced to deal with the issues.

Rich Messner was unhappy with the comment that was made that previous boards did nothing to repair road failures. He stated previous boards did not have the money to perform repairs. He also stated the board should have cut more into the mountain between the Howell and Carley homes. Peyton advised that the amount of money we have will not touch what needs to be done in this stretch of road. It could be upwards of \$70,000 to cut through the rock and mountain. We received several quotes and were advised that for every acre of dirt that is moved we need environmental impact studies. The board did what is a temporary repair with the money we felt comfortable spending.

Joan Messner requested a timeline on quotes and repairs. Stephan stated the speed would be rapid. When the quotes come in we will send it out to the community. She also requested that the board send out emails in regards to our progress.

Stephan advised that everyone drive on the mountain side of the road to avoid the edges and failures.

Bob Hayden questioned the amount of property owners the development currently has and Stephan responded with 82 Lots total, one of those is currently owned by the POA.

Joe Summers suggested a “band-aid” to close up some of the larger cracks in the road that are acting as funnels for water to undermine the road bed. His suggestion is a material comprised of ground asphalt which is 30-40 dollars a ton in South Carolina. He would like to apply this material and tamp it into place. Joe will research the pricing on this material in North Carolina.

Chris Amsbery stated another temporary fix might be to place curbs on certain areas of the road to channel the water. Stephan stated this might be something we look into down the road after the board knows how the lawsuit will turn out. He stated we shouldn't spend money on things like this yet because they may be torn out when and if the roads are repaired.

Flags have been placed around the mountain in and around areas that are failing. If they are at the roads edge this means the area over the side is sliding. The board also plans to paint caution lines in certain areas.

Joan Messner stated that an area near here home along the road becomes completely covered in water during hard rains. She stated that this is definitely undermining the road. Stephan suggested that homeowners mark areas around the mountain they have witnessed this and alert the board. He reminded everyone at the meeting that the current

board has budgeted \$4000.00 for crack repair. We will see what the ground asphalt material will cost and go from there.

-Covenant Amendment Discussion: The current board would like to raise more funds. This will be a supplemental road fund with a tiered pricing approach. Stephan suggested that an additional fee of \$300.00 per year for homeowners and \$200.00 per year for lot owners. He reminded everyone that changing our covenants is very difficult and getting responses from the whole HOA is also a challenge. He stated the current board has discussed this at length and doesn't feel that simply raising yearly dues will help. This money would only be used for the road failures and the board's goal would be to bring in \$18,500 per year to go into this savings fund.

Board member Crystal Ledbetter commented that this road fund had been a suggestion at our first POA meeting 9-10 years ago and if we had passed it then the HOA would be in a much better place financially today to deal with our current road failures.

Rich Messner commented that every board has had the same financial challenges. He wanted to know how the board was doing at collecting yearly dues. Crystal presented a list of home/lot owners who were delinquent. The first lot owner discussed is behind \$1600.00 and the previous board had arranged for this lot owner to help around the mountain to pay back some of the money. He was working steadily until he was placed in jail and he will remain in jail until September 2013. This property currently has a judgment against it. The next lot owner discussed owes the POA \$10,916 and the board has a judgment against their lot. Phyllis Howell, POA treasurer, has been tasked with checking for liens against this property and if there are no liens against the property the board will begin foreclosure proceedings. Another lot owner owes \$1000.00 as of October 2012. One of the above mentioned lots, #60, is currently for sale.

Jan Dokter questioned why the board was asking for only 2 or 3 hundred dollars and not more? He suggested the board consider the road fund be adjustable according to the POA needs. The board will check into the feasibility of this.

Chris Amsbery commented that Gateway Mountain, a local community, has an adjustable road fund. She would like to talk with them and see how they passed this.

Ginger Summers wanted the board to look into a building fee. The board mentioned that this had been suggested and tried before. Previous boards had tried this under a building impact fee and it didn't pass.

Linda Tadlock stated that our roads have never been this bad and if home/lot owners could see the need we have for a road fund there would be no problem passing the amendment. The board completely agreed but stated that the majority of the lot owners on the mountain haven't been here in years. Crystal suggested posting pictures on our website to show the road failures. Stephan reminded everyone that a lot of lot owners are struggling with financial problems at home and their property on Grants Mountain is the

least of their concerns at this time. Peyton Miller, Member at Large, also has plans to visit local banks and inquire about possible loans for road repairs.

Bob Hayden reminded that the amount of property owners out weighs the homeowners and the board will have a difficult time with a road fund.

Bill Hawkins questioned if there were any lot owners planning on building a home in the near future. The board stated we had one inquiry recently and this lot owner has not made any further requests. If and when this lot owner submits building plans the Vice President will review the plans and determine if they meet our covenant building standards.

Joe Summers would like to limit the size of trucks that are allowed on the mountain. The current board will decrease the size of truck to 16,000 pounds until our roads can be repaired. The current sign will be changed.

-Miscellaneous Board Items: The board has removed 3 more trees. At the last meeting the board recommended a “Tree Removal Guideline”. Stephan just reminded everyone what this is: Within the 60 foot easement the board will pay for removal and outside of easement it will be the home/lot owner’s expense.

The spraying of kudzu can continue by individual lot owners. Stephan wants to pass around the sprayer and poison for owners to spray. The kudzu will need to be sprayed continually. Someone recommended hiring goats to come in and eat the kudzu and the board will look into this option and pricing.

-Open Discussion: Ron Moore thanked the current board for their efforts.

Ron Tadlock mentioned that the second set of gates are at his home. We would like to place these at the front entrance and weld them in place. Stephan asked for volunteers to help with this option.

Stephan also mentioned that the board has been asked when the gated code will be changed again. The current board does not feel that at this time it would help deflect unwanted entry into our community. There is a resident on the mountain that spreads the code very quickly and this resident has a lot of traffic to and from their home. If the code is changed it will be in the community immediately. We will rely on the camera at the gate to catch any suspicious activity.

Mr. Smalley will provide the name of a tree cutting service he recently used and had a very bad experience with to the board. We will post this on the website.

-Motion to Adjourn made the meeting lasted 1 hour 49 minutes.

