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9mileranchhoa.org

## 2021 Nine Mile Ranch VOTER'S PAMPHLET

Dear fellow Lot Owners and neighbors,

You can go to [9mileranchhoa.org](http://9mileranchhoa.org) and find this document on the front page, where you can click onto the blue highlighted words within the document to discover the linked reports/information...

### Where We've Been the Last Three Years

Through the diligent work of (8) board members and (5) other committee members contributing over 7000 volunteer hours, here is a recap of what your HOA assessment funds have provided since 2018:

- 3 years of (volunteer) comprehensive road analysis and administration of services
- 170+ truck loads of gravel spread on community roads
- 40+ miles of road raked and graded
- all ditches and culverts cleared and maintained
- 15 eroded areas repaired
- 9 emergency repairs done
- 339 hours of snow plowing to clear roads
- 168 miles of road sanded
- \$38,186 worth of county and CCR-required weed and growth control performed
- all administration costs for the HOA website, road marking materials, road assessment mileage reimbursement, insurance and licensing, accounting and auditing services and subscriptions, state-required reserve study fees, meeting expenses, legal fees, etc.
- constant sources for informing about all HOA activity, including regular published newsletters and a website full with updated meeting minutes, road and financial reports, and access to all HOA records
- actions to uphold the protective covenants in our CCRs
- all the above working to uphold our property values

Though we've made great accomplishments toward compliance in maintaining our community roads as laid out in the CC&R's, there is more work to be done. The following Voter's Pamphlet lays out several Voting Items to continue the momentum of the work that has been started. If we are forward thinking and responsibly prepare a 5-year plan to gather the funding, this will spread out the assessment to more manageable annual payments for all Lot Owners rather than being hit with a large one-time special assessment in the future when the issue becomes even more dire.

## It's Your Vote About Funding

The Board is asking Lot Owners to vote on various funding options - your vote is your voice. HOA records show there has been a shortfall of overall funding for a long time. 26 years ago the developer set the assessment rate arbitrarily low at \$100 per Lot annually, which worked well for him as a sales tool, but not for the Ranch. Also, the increase in development and Lot use over the years is causing greater HOA funding needs. Here are some basic observations, as shown by HOA records:

- Since 2008: on average approximately 11 – 12% more has been spent each year than was taken in, that extra money coming from prior 'savings' long before 2018 and then from recent strong successes in collecting past-due accounts and associated interest fees and late charges since 2018 (and we've still been short on needed road maintenance funds throughout all these years).
- Since the early 2000's: every year (except 2018) has been substantially short on placing replenishment gravel; in other words, our original roads have been wearing away faster than we have been able to maintain them through annual income.
- Since the beginning of Nine Mile Ranch: some Lot Owners have access problems to their Lots due to road inadequacies that the HOA has not had funds to improve/repair.
- Since the beginning of Nine Mile Ranch: the original inadequate annual assessment rate has only barely kept ahead of inflation while traffic wear has increased multifold.

The cash-flow advantages of excess savings and past-due collections discussed above are gone now. The HOA's current \$58,000 per year to gravel, grade, ditch, repair, improve, weed spray, snow plow, and sand 32+ miles of roads – and provide all administrative and insurance expenses – is simply too little.

As the comprehensive [MASTER Annual Assessment and Reserve Fund and Study Report](#) created recently by two qualified committee members shows, there are three general areas of HOA expenses that need specific calculated additional income: annual averaged and adjusted expenses, critical road capital improvements, and other fund items related to traffic increase. The proposed increases for each of these individual categories for a 5-year schedule are discussed below as Voting Items #1, #2 and #3. There are no 'extras' in the calculations; everything is based on HOA historical maintenance and accounting data and thorough inspections/analysis of all Ranch roads and expenses for many years, all in conformance with CCR requirements... and the results are very reasonable.

You are also being asked to vote on two individual one-time special assessments – Voting Items #4 and #5 below – which address other critical current HOA issues.

So each of the “Voting Items” (VI) below can be chosen individually, like shopping at a store; add any or all of the items to your 'shopping cart' that you choose in favor of raising assessments for. However, please remember all items need funding! The Voting Items are each described in detail further below but here is a total per Lot cost chart of all five Voting Items:

<u>fiscal year</u>	<u>VI#1</u>	<u>VI#2</u>	<u>VI#3</u>	<u>VI#4</u>	<u>VI#5</u>	<u>total, if all chosen</u>
22/23	270.68	186.71	16.00	38.55	35.37	\$547.31
23/24	277.45	165.22	18.78	n/a	n/a	\$461.45
24/25	284.38	108.98	21.43	n/a	n/a	\$414.79
25/26	291.49	107.71	24.71	n/a	n/a	\$423.91
26/27	298.78	97.78	28.00	n/a	n/a	\$424.56

**VOTING ITEM #1: 5-Year Assessment Rates for Regular Annual P&L Expenditures**  
*(would become effective June 1, 2022)*

This Voting Item addresses needed annual funding for regular consistent annual expenses for the accounting categories shown in the ['profit and loss' statements](#); in essence, the typical yearly expense categories the HOA has encountered through history, averaged and then adjusted to meet actual needs<sup>1</sup>. The annual assessment rate is proposed to be raised to the following schedule:

- fiscal year 2022/23: \$270.68
- fiscal year 2023/24: \$277.45
- fiscal year 2024/25: \$284.38
- fiscal year 2025/26: \$291.49
- fiscal year 2026/27: \$298.78

***A Note To Absentee Lot Owners:***

*Even if you rarely use or visit your property there are still basic services that need to be performed on the road to your property, and the proposed annual average rate of \$285.00 is far less than if you had to pay for the services yourself:*

- *controlling of noxious weeds and road overgrowth, some of which is required by county law, and when a person doesn't drive on a road regularly the growth is far worse and presents a fire hazard to drive on most of the year.*
- *snow plowing, just to keep the road clear for even one visit to your property in the winter!*
- *ditch clearing and culvert cleaning, because water runoff and erosion happens even when you're not there.*

	<b>HOA Fee</b>	<b>Cost w/o the HOA Per Mile</b>
Noxious Weed/Growth Control	included	\$468
Snow Plowing	included	\$558
Ditch/Culvert Clearing	included	\$227
<b>TOTAL ANNUAL</b>	<b>\$285</b>	<b>\$1,253</b>

(The average road mileage to access each Lot on Nine Mile Ranch is 1 mile)

<sup>1</sup> Please see the [“Averaged & Adjusted Annual P&L Expenditure Categories”](#) report for calculation details.

**VOTING ITEM #2: 5-Years Assessment Rates for Critical Capital Improvements**  
(would become effective June 1, 2022)

The additional rates below, per Lot, are to fix a variety of [road sections](#) that are **currently inadequate** to allow Lot access at certain times of the year or that aren't adequate for some basic traffic aspects<sup>2</sup>; the HOA inherited these issues from the developer and they have never been addressed. In other words, some Lot Owners are and have been denied their property rights because the road sections are too steep, boulder-laden and/or narrow to maintain winter passability and in certain circumstances hinder access in regular seasons for certain regular traffic needs. This is also therefore a pressing legal liability for our HOA.

As the [MASTER Annual Assessment and Reserve Fund and Study Report](#) shows, the proposed additional rates also include annual deposits for 5 years into the HOA reserve fund for similar substandard road sections that are not currently depriving any Lot Owner of reasonable Lot access but are projected to become failures and legal liabilities in some years beyond 5 years from now, so the expenses for those items are required<sup>3</sup> to be accumulated over a number of years.

- fiscal year 2022/23: \$186.71
- fiscal year 2023/24: \$165.22
- fiscal year 2024/25: \$108.98
- fiscal year 2025/26: \$107.71
- fiscal year 2026/27: \$97.78

**VOTING ITEM #3: 5-Years Assessment Rates for Required Fund Items**  
(would become effective June 1, 2022)

This Voting Item is for additional rates to accomplish some road maintenance expense items that are either new to our HOA or have been neglected being accomplished because the HOA has not had the funds. These items are:

- securing funds for additional annual gravel wear<sup>4</sup> anticipated for the next 5 years due to the growing traffic rate on our roads,
- funds for required culvert and ditch maintenance related to private driveways that connect to Ranch roads within HOA easements<sup>5</sup>, and
- catch-up on required replenishment road gravel for years 2018-2021<sup>6</sup>, which has only been partially accomplished due to lack of existing funding.

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2 The HOA CCRs, at Article III, Section 1 gives every Lot Owner “a right and an easement of enjoyment in and to any easement...”. The key words are “easement of enjoyment”, regarding which one internet definition states, “Full enjoyment of the easement means that the owner of the easement is able to exercise all the benefits of the easement that are described in the document that created the easement.” So given the CCRs provide easements for recreational and residential use one would assume that all roads would be required to allow Lot Owners to conduct activities on the easements commensurate with residential and recreational uses, including driving autos and having delivery trucks and trailers, etc associated with residential activity in a development of this stature and location. And that if nothing else all Lots should have equal use of this nature compared to each other.

3 See [CCRs, Article IV, Section 4](#).

4 See Section I.2 in the report entitled, “[VOTE ITEM 3 – Fund Items](#)”.

5 See Section I.3 in the report entitled, “[VOTE ITEM 3 – Fund Items](#)”.

6 See Section I.5 in the report entitled, “[VOTE ITEM 3 – Fund Items](#)”.

The proposed additional per-Lot rates for a 5-year schedule are:

- fiscal year 2022/23: \$16.00
- fiscal year 2023/24: \$18.78
- fiscal year 2024/25: \$21.43
- fiscal year 2025/26: \$24.71
- fiscal year 2026/27: \$28.00

Again the items above are all obligations the HOA owes all Lot Owners under the CCRs.

**VOTING ITEM #4: One-Time Special Assessment: Winter Sanding Facility**  
*(would become effective August 1, 2021)*

**Summary:** \$38.55 per Lot, one time, which would pay for itself based on averages within 8 years.

As was explained in the February 2021 HOA newsletter, years of experience shows that the HOA's capacity to sand icy winter roads has become very inadequate and more costly than it could otherwise be if we do a little smart investing. This is now important to consider; we can't keep up with sanding needs at times, and what we can do costs too much.

[This report](#) shows the specifics of the proposed investment, involving setting up a local sand storage and loading facility; the scenario keeps our HOA's investment and liability as low as possible, having local contractors reliably provide equipment and sand storage space... its really an ideal situation for us.

Please also see page 2 of the [February 2021 HOA Newsletter](#) for added descriptions of the scenario, the background reasons for this proposal, and the benefits it would bring our HOA.

**VOTING ITEM #5: One-Time Special Assessment: CCR Enforcement**  
**Against Lot 47, Division 1**  
*(would become effective August 1, 2021)*

**Summary:** \$35.37\* per Lot, one time, estimated as needed to pay for a complete CCR-required court arbitration process in this circumstance.

Lot Owners have been informed of this situation in official Newsletters and Board meeting minutes for 2 years now, regarding violations of a Lot Owner. Significant potential consequences exist for the HOA and all Lot Owners if the violations are not enforced upon, including:

- Lot Owners' loss of use of an HOA easement section,
- lowering of surrounding Lot values or hampering of resale,
- hampered winter road maintenance on a Ranch road section,
- and precedence-setting erosion of the force of the protective covenants of Nine Mile Ranch.

- In other words, if the HOA does not legally challenge the violations it may have the effect of causing some legal abandonment of the validity of our CCRs.

The Board has taken every action possible at its disposal so far – except file legal suit – to cause compliance regarding the Ranch's most significant CCR violations issue, which involves business operation not allowed under our CCRs (commercial dog breeding), excess dogs, and also illegal HOA easement encroachment/possession. The Board has also levied fines against the violating Lot Owner, pursuant to the CCRs and state HOA laws. As a good-faith measure the Board more recently [offered to the violator](#) to eliminate the accrued fines if he came into compliance with the CCRs; the Board received no response."

Readers can view the chronology of official communications about the 'business and dogs violations' at [this link](#), and the official communications about the 'easement encroachment/possession' at [this link](#).

In essence, all out-of-court options have been exhausted and the 'case' has been mostly sorted out by attorneys and taken to the point of being mostly ready for legal action if Lot Owners supply the funds to proceed. HOA legal counsel has advised that, per HOA CCRs, arbitration is the required legal path of enforcement, and counsel has opined they feel the HOA's case is solid. Arbitration is a *far less expensive* litigation option than proceeding in a civil court case, and the judgment from it is legally binding.

The Lot Owners persistent violations have cost the HOA approximately \$4000.00 in legal fees so far.

Under our CCRs and state law, the prevailing party in an HOA litigation of this nature is awarded 'attorneys fees and costs', so it is possible we could see this money come back to the HOA. Legal counsel has advised that while laws do state that, it is not guaranteed that one party will be awarded all costs. Nonetheless, the goal of the special assessment is to:

- protect property values,
- protect the future enforceability of the CCRs,
- reclaim Lot Owners' use of an easement section, and
- guarantee successful winter maintenance of a road section.

\* \$2500.00 for a professional land survey of relevant property and easement boundaries, plus \$6000.00 for HOA attorney fees, plus \$2000.00 for court arbitration fees (the Lot Owner would have to also pay the same fee or otherwise automatically suffer forfeiture... judgment against him), plus \$500.00 for other costs = \$11,000.00 divided by 311 lots = **\$35.37 per Lot**

### **VOTING ITEM #6: Vote Whether to Waive a CPA Audit of Fiscal Year 2020/21**

Per HOA RCW 64.38.045 (3) “...*The financial statements of associations with annual assessments of fifty thousand dollars or more shall be audited at least annually by an independent certified public accountant, but the audit may be waived if sixty-seven percent of the votes casts by owners, in person or by proxy, at a meeting of the association in which a quorum is present, vote each year to*

***waive the audit.***" (bold added)

In other words, Washington State Law is written to give HOA members the right to choose whether to spend funds on a yearly audit of their HOA financials. This vote will take place every year. Although the majority of the audit will be looking at our accounting books and practices, it also reviews Board actions including proper disclosure of funds spent, proper meeting minutes, and internal controls. This audit would be regarding one (1) fiscal year: June 1, 2020 through May 31, 2021.

Last year the membership voted to waive (not have) the audit performed. For fiscal year 2018-2019 the membership voted to have the audit, and that audit was conducted. It was determined by the auditors the HOA's standards of accounting practices are "in conformity with accounting principles generally accepted in the United States." The auditors found no irregularities or issues (audit report is available upon request).

The cost of an audit is currently \$2,700.00. If the membership votes to have the audit waived (not have the audit this year) then the \$2,700 will be spent on road maintenance instead.

### **VOTING ITEM #7: *Vote for Directors for a 3-Year Term***

There are a total of 7 director positions on our HOA Board of Directors; in this election Lot Owners need to elect 7 directors to positions that will become vacant in June. There are (18) candidates who have submitted for election and you can view their bios in the following pages. Please vote for only 7 or less. Voting for more than 7 will invalidate your candidate vote.