

Special Board Meeting Minutes

Nine Mile Ranch Homeowners Association Special Board Meeting May 23, 2020

Due to the Coronavirus this Board meeting was held telephonically. Board members present; Kirk Johnson, Brian Rabe, Rick Lewis, Brett Coffman, Susan Stewart and Stacey Johnson. Also present was ACC Chair Todd Besaw.

Meeting was called to order at 11:03 am.

Motion to amend the agenda; to remove discussion about Commercial Enterprise Rule, as that appears at this moment to not be time-sensitive and can be addressed at the next regular Board meeting. And, to add discussion about Board and membership meeting protocol issues we are experiencing because of the Covid-19 pandemic. Seconded by Rick Lewis. Motion passed unanimously.

Old Business

Regarding the ditch blockage at Big Horn Ridge due to Barnett's installation of the gate. Barnett has agreed to the overall fix purposed by the Road Committee, and to also have Kirk Johnson oversee the fix. Fix is being priced right now by Tim Mason. Barnett will pay for fix.

New Business

Read into minutes motions passed via email since last meeting of March 14, 2020. Per Bylaws Article IV, Section 4:

- **Motion** made by Kirk Johnson to adopt the Domestic and Farm Animal Density Rule. Seconded by Susan Stewart. Motion passed unanimously on April 22, 2020. Rule is posted on the website.
- On March 30, 2020 an owner in Division 1 was given permission from the ACC to come into compliance with the CCR's Article IX/7 'two dogs limit' clause by way of attrition. The owner currently has three dogs and will therefore reduce to two dogs upon the third dog's death.
- **Motion** made by Kirk Johnson to add "Non Owned Auto Coverage" insurance policy and fee of \$68.00 for the remainder of this current policy year (through 4/18/21). Seconded by Stacey Johnson. Motion passed unanimously on May 16, 2020. Language in bid states: "If your association members/volunteer drives their own car for something work-related, and an accident happens, Non-Owned Auto insurance can protect you. This type of coverage is designed to provide liability coverage for bodily injuries and property damage coverage that association members/volunteer may cause while using a personal vehicle for business purposes."
- **Motion** made by Stacey Johnson to approve the 2020-2021 proposed budget submitted to the Board of Directors, via email, by the treasurer. Kirk seconded the motion. Motion passed unanimously.

- **Motion** made by Kirk Johnson on March 24, 2020; due to universal economic hardship being experienced because of the coronavirus pandemic, I move that no new late fees and interest charges be charged on all members' accounts until August 1, 2020, and that no late fees and interest charges will be retroactively charged regarding the time period of between April 1, 2020 and July 30, 2020. Motion passed unanimously.

Motion made by Kirk Johnson to amend the Enforcement Rules and Fines Schedule such that it will become in-force by way of CCRs Article IX Section 22, amending the first sentence in the Enforcement Rules and Fines Schedule to now read, “These Enforcement Rules and Fine Schedule (Enforcement Rules) for the Nine Mile Ranch Homeowners Association (Association) have been adopted by the Board of Directors (BOD) pursuant to the authority granted in RCW 64.38.020(11) and also pursuant to CCRs Article IX, Section 22.” Additionally I move that the adopted Rule is relocated on the HOA website from its current location to the category “CCRs and Legal” under “Additional Rules”. Seconded by Brett Coffman. Motion passed unanimously.

Motion made by Rick Lewis to approve expense report reimbursement to Kirk Johnson per email sent on May 20, 2020. (Reimbursement is for \$437.56. This is higher than usual as there are \$237.37 being reimbursed for rake maintenance tools) Seconded by Brian Rabe. Motion passed unanimously.

Discussion: driving on roads liability risk to HOA. What started this: a member with an apparent professional liability control and engineering background said to us his concerns regarding HOA liability generated by current road construction conditions. Researching this topic further through Okanogan County Road Dept., the internet, and personal experience the decision of the Board will be to solicit a bid for additional signs for some of the roads blind corners. The Road Committee will identify the places where signs are needed. Many of the HOA main entrance roads already have signs stating “Private Roads/No Warning Signs/20 mph”. Some signs are missing. An inventory will be taken and added to bid to be replaced. The bid will also incorporate adding “Use at Your Own Risk” to the existing and future signs. What is known as the “creek road” is considered the most “at risk” road due to blind corner and a bank that has potential of serious eroding. Kirk Johnson will make up a hand sign to warn of these issues until the bank can be fixed.

Discussion regarding whether Residential Home Rentals at the Ranch would be considered “commercial enterprises”. After considerable research and study of Washington state case law it is determined that Rentals are NOT considered a commercial enterprise, however any rental that provides an additional service, such as a B&B, is regarded as a commercial enterprise. This places the CCR enforcement regarding Rentals under the ACC jurisdiction.

Motion by Kirk Johnson to table the discussion for potential director position appointment until after the upcoming elections. Seconded by Rick Lewis. Motion passed unanimously.

Treasurer Report

Checking Account: \$18,288

Savings Account: \$17,358

CD Account: \$34,128

CD will be coming to maturity in July. Will be contacting the bank prior to that. Special assessment collection is at 88% now. Funds are still trickling in. Invoices for this coming year will be mailed next week. Paypal is all set up. Two past-due members whose current addresses were not available were found through Truthfinders background check.

Road Report

After this meeting and therefore including any results from this meeting the Road Committee will prepare a formal Road Report outlining current status and projected year road work plans.

Motion made by Kirk Johnson for \$11,000 weed spraying for spray season 2020/21. Seconded by Susan Stewart. The \$11,000 is the approved spraying amount in the 2020/21 budget. This incorporates 2 to 3 sprays. Spraying is lined up. It is possible it may be less as we have thoroughly sprayed for emergent weeds throughout the last two years. Motion passed unanimously.

Discussion regarding two spurs off of Old Tressle that have never been maintained. The Board was contacted by one of the two owners effected by these spurs, asking if the spurs are being maintained.

Facts:

- CCRs express legal duty to maintain all 60' easements and roads that appear on the maps. These spurs are indeed on the maps as 60' easements.
- The HOA has not maintained these easements for the last 23 years. Prior & current Boards have not acted upon the duty to maintain these easements.
- The HOA has not budgeted for maintenance expenditures for these spurs/easements; snow plowing, weed control, regular maintenance.
- Road Committee fielded pricing and created a final price to bring easements up to maintenance status; \$2,600.

Decision to send a letter to Lot Owner who called regarding those spurs. Letter will state explaining the facts above and that the HOA will bring spurs up to maintaining status when HOA can budget it in soon. There are other areas that need large dollar amounts invested. All of these will be identified and prioritized in a report coming soon. We will make it a high priority to bring the spurs up to standard. The plan is to mow it, spray it, and rake it to shape it up. That would bring it back to its original condition. Cost will be proposed for approval by the Board when Road Committee present breakdown of 2020/21 road work. **Motion** for Kirk to write letter to Lot Owner. Seconded by Rick Lewis. Motion passed unanimously.

Volunteer and professional raking has been done this spring with the new rake. Tim Mason raked about 2 miles in spots all around the Ranch, costing around \$800. Tim was tremendously "jazzed" about how effective the rake is. Volunteer raked Division 3 and some spot areas elsewhere. Tools for the rake were donated as well. Suggestion to pay volunteers \$40 per hour for regimented rake maintenance. We cannot pay a volunteer unless they were licensed. **Motion** made by Brett Coffman to hire out maintenance to rake manufacturer. Seconded by Stacey Johnson. Amend motion to include "other than volunteers who are willing to 'volunteer' to perform regular maintenance". Manufacturer is located between Oroville and Tonasket. Concerns that volunteer may not perform maintenance

properly. Motion amended to; all maintenance on the rake, when hired out, will be performed by the manufacturer. Motion passed unanimously. **Motion** made by Kirk Johnson that Nine Mile Ranch members, who are capable to perform rake maintenance, be allowed to perform basic, regular maintenance on the rake. Volunteers will perform maintenance according to the rake manual provided. Seconded by Brian Rabe. All volunteers, whether performing raking or maintenance, will be given a rake manual. The Road Committee will determine capability. There is now a full kit of tools for basic maintenance. Brett and Kirk donated some of the tools and some were purchased by the HOA. Motion passed unanimously.

All but \$3,600 worth of the first collection of the Special Assessment funds for gravel have been spent and placed so far, and approximately \$6,000 worth of annual gravel replenishment funds are still yet to be spent. All gravel placements are scheduled to continue but we are delaying it at this moment because of the PCI gravel being too wet to spread due to recent rains.

Current ditching/culvert maintenance is good from last fall; we were ready for this spring melt and all held up well. We will wait to spend any funds on this until later this year for what shows up as necessary. But we are and have been experienced some significant rains and therefore some wear on ditches and road surfaces, so we'll see how this goes. (one culvert in Division 7 is "plugged with fox kits")

Discussion regarding portion of Mallard Drive and Blue Grouse; whether this road section is legally the HOA's responsibility to maintain. This section of road is from 9 Mile Road to Nine Mile Ranch Division 5, with an original easement agreement between the Eders and Lynn & Marlene Barnett for maintenance of this section. This section is access for the approximately 50 Lots in Division 5. A Lot Owner brought this subject/concern to the Board; questioning whether the HOA is legally responsible to maintain the easement. Lynn Barnett was contacted to confirm whether there has been a filing to turn over maintenance to the HOA. Lynn did not remember. He felt there was a clear precedent set since the HOA has been performing and paying for maintenance for the last 23 years. Should we have Lynn complete the legal process in turning over maintenance responsibility to the HOA? This section is not called out on plat maps by survey coordinates but is indicated in other ways. This is an issue because it was raised by a Lot Owner, and the creek road will need a significant investment soon due to serious erosion. Decision to write Lynn Barnett having the HOA accept the responsibility and liability of said easement. This would benefit the HOA by avoiding legal complication if the Lot Owner who brought this forward decided to sue the HOA, and make general clarification. Also, this easement benefit 50 Lots for access. **Motion** by Stacey Johnson for the Board to produce a letter, written to Lynn Barnett, that for the benefit of Nine Mile Ranch the HOA receives absolute responsibility for the Mallard/Blue Grouse Road Sections that run through the easement known by county as filing number 841707. Seconded by Brett Coffman. Legal Committee will create the draft of letter for approval by the Board. Motion passed unanimously.

Discussion regarding meeting protocol due the Corona virus. Notice to the members, that will be mailed this week, was read out loud, stating the indefinite postponement of the Annual Membership Meeting. Board will continue to monitor the re-opening of Washington State/Okanogan County in hope of future rescheduled meeting. At this moment, Okanogan County is getting ready to submit to the Washington State Health Department to enter into partial Phase 2 which will allow only 5 people to

gather. Board will research actual viable alternatives for meetings that will provide equal opportunity for members to use and participate in meetings, if this situation appears that it will continue...if it were to run into next year annual meeting and future Board meetings. **Motion** made by Stacey Johnson to officially postpone the 2020 Annual Membership Meeting while the Board continues to monitor the situation, with notice being sent this week to all members. Seconded by Brian Rabe. Brett Coffman stated for the record that he does not agree with Washington State Guidelines; Brett believes that our meeting is “essential”. Motion passed unanimously.

Motion made by Kirk Johnson; Pursuant to RCW 64.38.035(4) that we now assemble in closed session to discuss matters involving possible violations of the governing documents of the Association, and matters involving the possible liability of an owner to the Association. Namely 1) the existing unapproved dog breeding business of the owner of Division 1, Lot 47 the recent installation of a permanent fence within the HOA easement and encroaching the HOA road by same owner. Seconded by Susan Stewart. Motion passed unanimously.

Meeting is adjourned at 12:48.

Executive session convened.

Motion made by Kirk Johnson for Stacey Johnson to contact Miller & Chase, PLLC to set up a consultation meeting regarding easement encroachment/blockage on Division 1, Lot 47, motion for \$600. Seconded by Brian Rabe. Motion passed unanimously.

Approved Board Meeting Minutes

Nine Mile Ranch Homeowners Association Board of Directors Meeting July 11, 2020

Due to Coronavirus this Board meeting was held telephonically. Board members present; Brian Rabe, Richard Lewis, Brett Coffman, Susan Stewart, Stacey Johnson, Don Charnholm, Pam Lewis and Kirk Johnson.

Meeting called to order at 11:14 am.

Motion made by Kirk Johnson to add to the agenda a discussion regarding rescinding past policies. Seconded by Brian Rabe. Motion passed unanimously.

Old Business

Regarding Barnett's placement of gate at Big Horn Ridge: Tim Mason has sent 2 bids to Lynn Barnett for repairs. HOA has not heard back from Mr. Barnett. Followup contact with to Mr. Barnett will be attempted.

Mr. Barnett is in agreement for the HOA to formally take responsibility of a private easement portion of Mallard Drive. A draft agreement will be written soon for Board approval before sending it to Mr. Barnett (this is an easement that runs from 9 Mile Road to Division 5). Directors Kirk & Stacey Johnson and Pam Lewis should recuse themselves from final approval of letter given that they are directly affected by said easement.

New Business

Read into minutes motions passed via email since last Board meeting on May 23, 2020. Per Bylaws Article IV, Section 4:

Motion: On 6/10/20 the following motion was adopted: WHEREAS the law firm Miller & Chase is qualified to represent our HOA in general counsel legal matters. There are two attorneys at the firm who both have substantial HOA experience, including in Washington state. They also litigate locally and are extremely familiar with local court rules, experiences, and judges and local jurisprudence, and WHEREAS their rates are as follows: \$225.00 per hour for attorney, \$85.00 for paralegal, they bill in .1 hour increments, and any email is a minimum of .1 hour billing. We would not be required to maintain a retainer but would be billed on their regular billing cycle, IT IS UNANIMOUSLY RESOLVED THAT, pursuant to Bylaws Article VI, Section 4, the Board of Directors approves the law firm Miller & Chase in Omak, WA to become the inside general counsel law firm for the 9MR HOA. Motion brought by Kirk Johnson, seconded by Brian Rabe.

Motion: On 6/10/20 the following motion was adopted: Motion brought by Kirk Johnson, seconded by Brian Rabe. IT IS UNANIMOUSLY RESOLVED THAT, pursuant to Bylaws

Article VI, Section 4, that we seek immediate counsel from our HOA attorney regarding the following legal questions:

- 1) Clarify whether our annual meeting ballot contents meet with legal requirements. This includes verifying whether we can legally count the ballots on June 20, 2020, out of meeting, as we have planned or if we are advised to wait to count the ballots in some form of live annual membership meeting. This therefore also includes clarifying whether the ballot subjects of waiving the audit, electing (2) directors and rejecting the annual budget can be validated on June 20, 2020 which determines whether HOA business proceeds from that point forward with new additional directors and a new budget.
- 2) Clarify legal requirements for noticing the membership for regular and special Board meetings, as well as requirements for noticing and adhering to agenda items for those meetings. Attorney Andy Chase indicated yesterday that we may have obligations about this that we have not yet followed, but he is also not yet directly familiar with our Bylaws stipulations and how they overlay with RCWs and how that causes us to therefore be required to act. Stacey will contact Miller & Chase with questions and information and request an email response from them.

On 6/17/20 the following motion was adopted:

Motion brought by Kirk Johnson, seconded by Brian Rabe. IT IS UNANIMOUSLY RESOLVED THAT, pursuant to Bylaws Article VI, Section 4 and to legal counsel advice that arose from 6/8/20 counsel with law firm Miller & Chase:

- 1) that we may immediately submit information relative to recent member emails - that have raised legal questions - to HOA general counsel Miller & Chase, asking for legal guidance and counsel regarding the issues and/or any potential response. Counsel's legal advice/response may be given in writing or in a conference telephonic or video call live at the next Board meeting. Stacey will prepare legal questions and accompanying information to be submitted to counsel and send that to the Board for review prior to sending it to counsel.
- 2) that counsel may, according to majority Board consent via email, attend the Board meeting telephonically or by video conference and will represent the HOA and provide counsel in any matters that arise.
- 3) that HOA general counsel may attend any Board or membership meeting henceforward, upon majority consent of the Board via email prior to the meeting, and counsel will be asked to advise us in the next meeting whether this clause in this Motion is legally valid.
- 4) that the charges from counsel which arise from this Motion will come out of the general 2020/2021 or otherwise current legal budget, and if necessary additional funds be used from savings/reserve fund.
- 5) that Brian and/or Felicity Rabe be in charge of arranging and administering any tele/video conference.

Motion: Brought in email on June 16, 2020 and resolved on June 22, 2020, Pursuant to Bylaws Article VI, Section 4, "IT IS RESOLVED to spend \$50.00 for a Hometown Pizza gift certificate for Clyde Andrews as a thank you for taking the time to count the HOA ballots. Expense will be inputted under "meeting expense" in the HOA accounting records. Note that this is Clyde Andrews' third time counting for us. We have not presented him with a gift of thank you before." Motion was brought by Stacey Johnson and seconded by Brian Rabe. Motion passed unanimously.

Elections Results:

- Director Don Charnholm received 86 votes, Director Pam Lewis received 76

- Waiving of the audit: Yes (to waive the audit) = 87 No (to not waive the audit) = 37
- Budget: Approve = 101 Not approve = 20
- 128 ballots were received
- 1 ballot was not counted due to suspension of member's voting rights
- An additional 5 ballots were received in the mail after date due and were therefore not counted.

Election of Officers for One Year Term

Motion made by Susan Stewart to elected Kirk Johnson as President for this next year. Seconded by Richard Lewis. Motion passed; 7 yes, Kirk Johnson abstained.

Motion made by Susan Stewart to elect Stacey Johnson as Secretary/Treasurer for this year. Seconded by Brett Coffman. Motion passed unanimously.

Motion made by Stacey Johnson to elected Brian Rabe as Vice President for this year. Seconded by Kirk Johnson. Motion passed unanimously.

Terms of new directors: Based on number of votes each director received; Don Charnholm's term is 3 years, Pam Lewis term is 2 years. A spreadsheet will be emailed to all Directors, from the Secretary, showing the term layout for all Directors since the first election in 2018.

Upcoming year's meeting dates: Stacey Johnson will email Directors suggested Board meeting dates for the upcoming year. The dates will be approved via email by the majority of the Board members.

Rental Compliance:

Motion made by Kirk Johnson: Regarding compliance with CCRs Article IX, Section 12, I move to:
a) establish either a policy or a form that contains the content the Board requires landlords to provide to the ACC which reasonably enables the ACC to enforce Article IX, Section 12, and
b) direct the ACC to contact known landlords and engage compliance.

Seconded by Richard Lewis. Letter and Renter Form to Lot Owners that are renting on their Lot, written by the ACC and Legal Committee, were presented to the BOD to use in discussion. Discussion included that the CCRs allow renting no longer than 6 months per calendar year as well as requires renter to sign the CCRs showing that the renter has read them.

Motion made by Kirk Johnson for acceptance of draft Rental Form excluding names of all occupants, vehicle make, model & licenses. Seconded by Richard Lewis.

Motion made by Susan Stewart to amend motion for Rental Form to also include numbers of occupants and number of licensed vehicles. Seconded by Brian Rabe. Motion passed; 5 yes, Don Charnholm, Pam Lewis and Kirk Johnson voted no.

Motion made by Susan Stewart to amend motion to include note to Lot Owner/landlord, either in Letter or Rental Form, mentioning speeding and abuse of roads by renter. This note will be crafted by the ACC and Legal Committee to be presented to the Board for approval via email by the majority. Seconded by Don Charnholm.

Final summary of all motions: To accept Rental Form with changes of removing names of all occupants and vehicle information and adding number of occupants and vehicles. Changes will be given to the ACC and Legal Committee to rewrite and present to the Board. Statement to Lot Owner regarding renters honoring speed limit will be added to Letter or Rental Form, written by the ACC and Legal Committee to be presented to the Board for approval via email by the majority. Motion passed unanimously.

Rescinding Subject

WHEREAS it appears, according to historical minutes, that there has been little or no rescinding of motions in the record that may conflict with each other, which is not in the best interests of the HOA if that condition exists, and

WHEREAS the board of the HOA has resolved to adhere to Roberts Rules of order, such rules which impart that any new policy or resolution passed by the board which conflicts with a prior resolution causes the new policy to be invalid, and

WHEREAS a member of the HOA has recently insinuated in writing to the board that if such conflicts exist in the record that he may regard that as a breach of the board's fiduciary duty and consider using that as a reason to pursue legal pressure against the HOA in some way or another or to establish that some beneficial governing work of the HOA is rendered void,

Motion: THEREFORE Kirk Johnson moves that any policy, standard, or motion in the minutes since May 30, 2018 that relates to the same subject in any minutes prior to May 30, 2018 hereby supersedes the prior language, causing the prior language to be rescinded and the new language to be valid since the date of the new language's adoption. Seconded by Brett Coffman. Motion passed unanimously.

Motion made by Kirk Johnson to amend the 6/18/17 BOD general policy regarding official communications and orders from the HOA to work contractors. The policy read, "All HOA road maintenance scheduling and authorization for work be communicated to the contractors by the Road Manager only, or in his absence, the President of the BOD." Amend the policy to now read, "All HOA road maintenance scheduling and authorization for work be communicated to the contractors by the Road Manager, or by an agent appointed by the Road Manager, or in the Road Manager's or appointed agent's absence, the President of the BOD." Seconded by Stacey Johnson. Amendment by Brett Coffman to add "Road Committee Agent" in place of agent. Seconded by Kirk Johnson. Motion passed unanimously.

Ballot Voting & Recount Procedures

Motion by Kirk Johnson to discuss proposed Election, Ballots & Recount Policy. Seconded by Susan Stewart. Pass unanimously.

WHEREAS we interpret that, in law, some information within membership voting ballots is of an executive nature, that owners have a right to expect ballot privacy, and

WHEREAS applicable state statutes and governing documents provisions allow the records of the HOA to be inspected by all owners, and that records in the form of membership voting ballots are not expressly excluded from being regarded as records to be inspected, and

WHEREAS we regard it our duty to provide a solution that at once satisfies both acknowledgments above, and

WHEREAS there are legitimate circumstances under which the membership can require the Board to conduct a recount of an HOA election, and

WHEREAS original election vote tallying and any potential verification is probably the single most potentially consequential act on the confidence and proper function of a voting fiduciary-based organization, such that we consider it detrimental to the HOA to have any number of individual members creating their own unofficial 'recounts' and thereafter potentially promulgating varieties of individual conclusions that cause an undue undermining of the 'public confidence' in election processes, and that allowing copies of ballots to be made and/or distributed would have the same detrimental effect,

Motion made by Kirk Johnson to accept the following criteria be met and followed regarding inspection of prior HOA election ballots, conduction of future membership election ballots, and cause for official election recounting. Motion passed unanimously. (Policy will be available on HOA website.)

Commercial Enterprises Rule

Motion made by Kirk Johnson to adopt the Commercial Enterprises Rule. Seconded by Brett Coffman. Motion passed unanimously. (Rule will be available on the HOA website)

Newsletter

Motion made by Stacey Johnson for a newsletter to be sent out by the end of July with a spending cap of \$250, content to be approved via email by the majority of the Board. Seconded by Don Charnholm. Newsletter will written by Newsletter Committee to present to the Board. Motion passed unanimously.

Treasurer Report

Checking: \$48,453
Savings: \$17,359
CD: \$34,199

Acct Rev.

Total:	\$ 66,869.41
Less fines	- 13,150.00
Less Lien/Int/late fees/misc	- 4,960.79
All assessments owed	\$48,758.62
8 Lots many years past due (total due)	<u>9,762.93</u>
	\$38,995.69
Special assessments owed (1 st billing)	3,392.04
Special assessments owed (2 nd billing)	<u>11,039.08</u>
Total Annual Assessments owed	\$24,564.57
Annual assessments owed (current billing)	22,169.17
Annual assessment owed (last years)	<u>2,395.40</u>
	0

78% of total special assessments has been collected.

Paypal is not working. Bottom line is Paypal will not accept the PO Box as the HOA address. Account can be set up using an individual's address, but account would also be under their name. Treasurer is unwilling to do this. (No BOD members offered as well). Paypal will be canceled.

One Paypal payment made it through to us. The member did not add the requested 3% charge. Board instructed Treasurer to carry the balance forward; member will be charged.

Treasurer received a bounced check notice.

CD will be reaching its maturity on July 21, 2020. Contact is made with HOA banker to discuss rolling it over into new account. Update will be sent to the BOD.

Treasurer is instructed to make the budgeted \$3,000 deposit into the HOA Savings Account.

Motion made by Stacey Johnson to, due to covid-19, extend the suspension of late fees and interest on past due accounts through October 1, 2020, to be readdressed at the next Board meeting on October 10, 2020. Seconded by Susan Stewart. Mail to and from Canada – US is taking a month+. Motion passed unanimously.

Statement Regarding Historical Reserve Fund

The current Board of Directors is aware of a prior Reserve Fund Policy adopted in 2012, and that the HOA, at this time, does not meet the policy requirement of “a reserve fund equal to or greater than that years annual budget”. The Board is seeking to resolve this shortfall through upcoming final reserve study reporting which will inform a potential assessment increase and budget change to be considered for next year. Board is in agreement to statement. (2012 Reserve Fund Policy can be found on HOA Website)

Motion made by Kirk Johnson to extend the meeting by ½ hour. Seconded by Stacey Johnson. Motion passed unanimously.

Road Report

Road Work Performed to date from April 2020 to July 10, 2020

1. 4/24/20 Raking \$845.52

W.O. #01-2020: approximately 2.5 miles of mostly DEEP raking and reshaping on (14) different spots throughout the Ranch.

2. 5/28/20 Erosion, Prevention, and Safety Repairs on West Corralapprox. \$1085.00

W.O. #02-2020: Division 7, at the switchback corner 1.1 miles up West Corral where it meets with Gold Rush Ridge Road: install 9MR-provided '8"-4" clean' rip rap on the embankment erosion spots at the corner, on both road embankments before and after the actual turn of the switchback. This will likely include attending to the culvert outlet area also. Please do work as per direction from Brett Coffman. Clear the culvert inlet basin area of siltation. Per direction of Brett Coffman, repair the ditch at the top of Gold Rush Ridge and install 9MR-provided '12"-minus dirty' rip rap, armoring the ditch and road, per Brett's requests.

3. Volunteer Raking in May and June

Volunteer has not submitted a mileage reimbursement request (yet??). Approximately 2.5 miles of spots including:

- Upper West Corral in Division 7.
- (2) spots on Gold Rush Ridge Road in Division 8.
- short spot at .8 Mallard Drive (assisting with raking out a gravel placement and road reshaping for better drainage.
- Approximately .2 miles of Old Tressle incline below Thompson's place.
- .5 miles of Wagon Wheel road.

4. 6/17/20 Erosion Repairs, Ditching, and Raking various areas approx. \$3300.00

W.O. #03-2020, plus additions and omissions:

- Rake Allen Drive in Division 2.

- On Pine Bluff Road in Division 4, 800' down from the Old Tressle intersection, restore the filled ditch and reshape the road plane to fill erosion and have the road shed water better again. Also clear out the plugged driveway culvert associated with this area (this part has not been performed yet).
- Repair road plane erosion and re-crown: rake approximately 300' of Pine Bluff, just north of the Canyon Spur intersection.
- On Pine Bluff between .2 and .35 miles from Chesaw road: rake for crowning, erosion and potholes.
- On Longhorn in lower Division 8: using a backhoe uncover an extremely buried culvert outlet.
- On Sunset Ridge at .9 miles north of the Old Tressle intersection: grade 200' for significant drainage reshaping and crowning, pull 100' of associated ditch, install (1) load of PCI 5/8"-minus gravel and walk it down with a dump truck for compaction.
- At the end of Wagon Wheel in Division 2: Call for power and phone locate. Using a grader, reshape the culdesac to allow proper drainage away from the road and into the ditches (this has been a problem since the road was built), grade the road for erosion repair, pull approx, 300' of ditch, and install 1-2 loads of gravel as appropriate. This task is being done right now.

5. June 2020 Major Weed Spray \$9276.75

6. July 2020 Touch up Spray, with Road Committee assessment

Two Road Committee members split up the Ranch and toured all roads for touch-up spraying, marked maps for an order, created a list with maps and order for the sprayer and mailed the sprayer the order. Spraying to commence week of July 13. In the last two years this second spray comes in at around \$1800.00, but we'll see when we get the bill. Specific assessment and notes were taken to document planned pre-emergent sterilant spray for early next spring, as these areas of growth are encroaching the road planes and need to be sprayed before they are visually identifiable.

7. Special Assessment and Annual Replenishment Gravel placed \$23,071.25

Between April 1, 2020 and late June we have placed (57) 11-yard truckloads of gravel throughout the Ranch; \$9518.63 for annual replenishment gravel, and \$13,552.62 of special assessment gravel.

Other Current Road Work Considerations by the Road Committee

- 1. A third touch-up spray.** The last two years required a final small touch up spray, coming in the low to mid \$100's in cost. We'll see if this is necessary this year.
- 2. Signage.** A bid has been procured to purchase (17) commercial 'road warning' signs at entrances throughout the Ranch, cost of \$963.70 with tax. (12) signs to read, "USE ROADS AT YOUR OWN RISK", and (5) signs to replace missing signs that would say the same as the others: "PRIVATE ROAD – NO WARNING SIGNS – 20 MPH – ALL WHEEL DRIVE REQUIRED". These signs fulfill the best possible liability exclusion waiver for the HOA to protect the HOA against liability suit from drivers on roads, as well as best advise drivers of safest driving circumstances and warnings. The price for this bid was done through a known professional competitive road sign company, and the bid is similar to the cost for a similar amount and type of signs purchase by the prior board a number of years ago.
- 3. Reclaim Two Spurs on Old Tressle.** There are two small road sections at the west end of Old Tressle – one is 400' long and the other is 800' long – which have apparently not been maintained since they were originally constructed by the developer. Last winter a Lot Owner who owns property adjacent to these spurs asked the Board to attend to this issue. The Board found that the spurs are indeed '60-wide easements and roads' the HOA is required to maintain like all other roads per CCRs. A bid for approximately \$2600.00 was procured to mow down the overgrowth, rake the growth to the culdesac, rake the existing gravel into decent shape, and sterilant-spray the road planes. The work is planned to be accomplished sometime during the 2020/2021 fiscal year (ie. before June 1, 2021).

4. **Continue placing special assessment and annual replenishment gravel.** These placements were suspended in late June because natural road and gravel moisture was becoming inadequate for decent gravel compaction upon placement and regular road traffic. All of 2019/2020 annual replenishment gravel was placed, and the amount of special assessment gravel that was placed stayed on-pace with the actual funds collection amounts as funds came in. Placements will resume in fall when moisture conditions are supportive, and we will also be in a new fiscal year to possibly start placing 2020/2021 annual replenishment gravel as well.
5. **Fall culvert clearing and ditching.** Spring road assessments determined that, with few exceptions which have already been repaired, ditching and culverts were in proper useful condition to head through this summer, barring unforeseeable weather events. So a final check and performance of ditches and culverts clearing will be made this fall in preparation for the next winter/spring duty.
6. **Possible fall raking.** Budget permitting, rake spots for elimination of washboard, maintaining crown and reclaiming roadside gravel will be done in the fall, emphasizing highest priority items within budget.
7. **Possible higher winter maintenance expenses.** Regarding plowing and sanding... This subject is yet undetermined but we're aware of it's potential:
 - It has been increasingly problematic for plowers in recent years (as well as they have been voicing it more) that the rough Ranch road sections with boulder heads sticking up cause them heavy wear and expense on their equipment that they may be asking higher plowing rates to compensate for.
 - There are more wintertime residents and traffic on the Ranch these days, so there is greater call for more wintertime sanding.
8. **Some roadside tree felling.** There are at least (4) trees on upper Division 5 that are really encroaching Blue Grouse to the point that winter plowing and traffic are negatively affected. There may be some other additional maintenance spots like this to attend to as well.
9. **Action regarding various capital improvement projects.** There are a multitude of known and determined road spots that could use improvement, prioritized by consideration of increased traffic in the future. These kinds of spots include:
 - widening sections that are currently too narrow for oncoming traffic passage or proper winter maintenance.
 - establishing better water shedding before such current water shedding doesn't become a problem when traffic increases
 - improving blind corners: increasing road width so oncoming cars are able to pass each other safely without needing to see each other coming.
 - raising road sections that currently become submerged during spring melt; with one exception these sections are relatively OK for now but some are getting close to being a problem when heavier traffic comes in the future and causes the roads to become too muddy to pass through.
10. **Reserve fund study.** The Road Committee, especially two members for now, have been assessing and accumulating 'component items' of road repairs to be considered for completing the final study and report. We have also done some preliminary analysis/studying of the professional report supplied to us from ARS earlier this year. Many deliberations and discussions have happened also. All these things will be part of a comprehensive reserve fund study and recommendation for assessment rate that the Board will analyze and consider later this fiscal year and then bring to the membership for their consideration.

Discussion regarding some road spots. One discussion was in regard to weeds growing and excessive bolderheads on portion of Blue Gross Road. A spray regiment is already planned to deal with this trouble spot. Richard Lewis volunteers to cut down tall grass in middle of road if necessary.

Motion made by Kirk Johnson that the Board authorize \$4,000 for the Road Committee to spend on further road maintenance that coheres with the Road Report, prioritized by emergent needs. Seconded by Brett Coffman. Motion passed unanimously.

Motion made by Susan Stewart that volunteers who want reimbursement for their expenses need to bill the HOA for expenses within a 6 months. Seconded by Kirk Johnson. Motion passed unanimously.

Consent requested made by Kirk Johnson to have the Road Committee spend \$950 for new warning signs for roads. This is an important liability issue for the Ranch. Unanimous consent given.

Motion made by Kirk Johnson for new mileage rate for V-8 vehicle used in road assessment touring. Seconded by Brian Rabe. Concern that some members have issues with mileage reimbursement.

Motion made by Brian Rabe to amend motion to table subject and mention this subject in upcoming newsletter. . Seconded by Don Charnholm. Board agreed to let membership know about this in upcoming newsletter and get feedback from members. Motion passed unanimously. Newsletter Committee will write up wording for Board to approve.

ACC Report

The ACC is still working with two Lot Owners on applications for plan approval; one in Division 8 for a residence, the other in Division 4 for a shed. If any ACC or Board members are aware of any new activity please inform so it can be confirmed.

Moved into executive session at 1:43 pm.

Motion made to spend funds on further legal counsel for the Board to pin down final steps in moving forward with enforcement on violating Lot Owner, with a spending cap of \$500. Motion passed unanimously.

Meeting adjourned at 2:18 pm.

Corrections made to these minutes on August 10, 2020 per unanimous approval by the BOD

Special Board Meeting Minutes

Nine Mile Ranch Homeowners Association Special Board Meeting August 29, 2020

Due to the Coronavirus this Board meeting was held telephonically. Board members present; Kirk Johnson, Brian Rabe, Rick Lewis, Brett Coffman, Susan Stewart, Don Charnholm, Pam Lewis and Stacey Johnson. (all Board members present)

Meeting is being recorded by secretary only.

All Board members stated they had no audience members present for the teleconference.

Meeting was called to order at 10:06 am.

Discussion regarding August 28, 2020 Cash Flow Report emailed to Board prior to meeting. Changes in wording suggested and noted.

Discussion regarding upcoming road work this fall and next spring. Decisions for spending funds is based on said Cash Flow Report.

- There was a recent touch up spray performed. Invoice has not been received. Estimated at \$500.
- Estimated cost of spring 2021 pre-emergent sterilant is \$4000. A pre-emergent spray has not been done for many years. Doing this will most likely reduce the amount of spray done in June 2021.
- More funds are still coming in through collections.
- Considerations for road expenditures are outlined in the 7/12/2020 Road Report. Following list is in priorities:
 - maintaining watershed and erosion control characteristics such as culvert and ditch clearing and raking or grading for road crowing.
 - Other structural repairs, like repairing dust spots and other erosion-prone areas.
 - Placement of yearly replenishment gravel.
 - Raking of roads to eliminate washboard and potholes.
- Consideration of how much money we should not spend now - hold out for unforeseen costs.
- Although budgeted amount for snowplowing and sanding is incorporated in Cash Flow Report, we should consider having extra in case of severe winter.

Motion made by Kirk Johnson that \$9,000.00 be made available to the Road Committee to spend on roads at their discretion with priorities given to the following items: 1) considerations outlined in the 7/12/2020 road report, 2) maintaining watershed and erosion control characteristics such as culvert and ditch clearing and raking or grading for road crowing, 3) other structural repairs, like repairing dust spots and other erosion-prone areas, 4) placement of yearly replenishment gravel and 5) raking of roads to eliminate washboard and potholes. Seconded by Richard Lewis. Stacey moves to amended motion to state the funds used are to come from annual assessment collections, not from the special assessment collections. Kirk Johnson seconds amendment. Motion passed unanimously.

Consent agreed upon to post August 28, 2020 Cash Flow Report to website.

Discussion regarding HOA/BOD right to spend funds to enforce CCRs and to seek special assessment if necessary. Also, the right and duty to enforce/uphold CCRs. Majority (all but one) directors believe that the Board has the responsibility and duty to enforce/uphold the CCRs. Enforcement/unholding CCRs includes inquiry, imposing fines and filing legal suit if necessary. Looking at CCRs Article IV Section 4 and 6 clarity was brought forward as to the right to ask the membership for a special assessment for legal funds, if necessary. Spending Association funds on legal fees is always a concern.

Director Pam Lewis has stated that the Board has the power to enforce CCRs but not the duty to do so. Prior legal counsel states that “Thus, the Board has the power to enforce the covenants, but the duty to enforce them only to the extent authorized by a vote of the Board. As a general matter, the Board has a fiduciary duty to the members of the Association. This fiduciary duty is tempered by the business judgment rule, which requires the Board to act on behalf of the Association in a reasonably prudent manner. If the Board reasonably determines, after a reasonable inquiry, that an attempt to enforce a covenant would be unsuccessful, or would unreasonably consume the resources of the Association, it may decline to pursue enforcement.”

CCRs give the Board all the tools to manifest funds for enforcement, if necessary.

Discussion about clarification whether current HOA/BOD member accepts unconditional compliance with CCRs: The following is directed at Pam Lewis, who is at this meeting as a Board member. “There seems to be some confusion over this subject so for clarification, regarding you having 2 more dogs than are allowed by the CCRs at Article IX, Section 7, the BOD and ACC communicated to you some months ago in writing that you must comply with the covenant and has offered you the option to comply through attrition; in other words, allow your number of dogs to reduce to 2 over time by way of the natural death of the excess number of dogs. This offer of attrition is not a member’s right to have by way of the CCRs but is rather the sole right of the Board of Directors to offer to violating member if the Board considers this to be in the best interest of the Association. This offer of compliance through attrition of your current dog overages offered to you is not conditioned as “for the time being” as you have said, nor for any other time period or circumstance; it is either accepted by you in full or it is rejected by you if you communicate any form of condition on your acceptance. So for the record, please state clearly whether you accept this offer of unconditional attrition regarding your current 2 dog overage.” Director Pam Lewis response, “as I’ve stated before I will accept that for now. Things can change and I will not accept that if things change”. Director was then asked “as long as the current CCRs exist without amendment for the limitation of 2 dogs you do accept the offer of attrition”. Director Pam Lewis agreed. (Note: Prior Boards did not consistently enforce the 2 dog limit. In the best interest of the HOA, the current Board has offered attrition to those members not in compliance prior to 2018. From here forward the 2 dog limit will be enforced with attrition no longer being offered.)

Board assembled in closed session to discuss matter involving violations of the governing documents of the Association, and matters involving the possible liability of an owner to the Association namely the existing unapproved dog breeding business of the owner of Division 1, Lot 47, the recent installation of a permanent fence within the HOA easement and encroaching the HOA road, by the same owner with the violating dog breeding business.

Board reconvened to ratify the following motions made in closed session:

Motion made by Kirk Johnson that the current draft letter be immediately sent to the owner of Division 1 Lot 47 regarding a final offer of settlement before legal action ensues. The final offer includes all of

the same prior-communicated requirements to the Lot Owner that they remedy their violation of CCRs dog and commercial breeding clauses and also easement encroachment clauses. The offer also includes forgiving the amount owed of fines. Response and compliance is required within 30 days. Member's current balance statement of account will be included. Motion passed 7 yes, 1 no = Pam Lewis.

Motion made by Stacey Johnson to send said letter certified to member. Seconded by Susan Stewart. Motion passed 7 yes, 1 no = Kirk Johnson.

Motion made by Kirk Johnson;

WHEREAS it is the duty of each HOA member to comply with the terms of the 9MR CCRs, and

- WHEREAS it is the duty of the Board of Directors to uphold the CCRs unless such proposed actions to cause compliance with the CCRS are not in the best interests of the HOA or if such proposed actions are unduly burdensome on the HOA's ability to obtain enough income to support the proposed actions, and
-
- WHEREAS the particular violations of the owner of Division 1 / lot 47 are extensive and long-standing such that the violations threaten nearby property values, and other rights to HOA members, and violate the purposes and terms as clearly expressed in the CCRs,
-
- THEREFORE be it resolved that an amount of up to \$3000.00 be spent to have HOA general legal counsel 1) draft a legal agenda/itinerary and supportive explanations for the Board to follow for the subsequent legal pursuit of enforcing upon the lot owner for his CCR violations, and 2) draft a one-page summary and explanation of the case and recommended legal process for the general HOA membership to receive. This expenditure will not be taken until and if the violating lot owner does not timely respond to the current out-of-court settlement offer from the Board regarding the violations. The funds used for this motion will be used from the current legal expenditure budget, and if more funds are needed than what that budget can provide then the additional funds will be taken from the HOA reserve fund. Such funds taken from the reserve fund will be replaced from next fiscal year's regular annual assessment income.

Seconded by Richard Lewis. Motion passes 6 yes, 2 no's = Pam Lewis and Don Charnholm.

Meeting adjourned at 11:37 am.

Special Board Meeting Minutes

Nine Mile Ranch Homeowners Association Special Board Meeting September 24, 2020

Due to the Coronavirus this Board meeting was held telephonically. Board members present; Kirk Johnson, Brian Rabe, Rick Lewis, Brett Coffman, Susan Stewart, Don Charnholm, Pam Lewis and Stacey Johnson. (all Board members present)

Meeting is being recorded by secretary only.

All Board members stated they had no audience members present for the teleconference.

Meeting was called to order at 7:34 pm.

Big Horn Ridge gate/ditch issue update: Mr. Barnett was contacted yesterday regarding this situation. (Mr. Barnett was to enlist Tollefson Construction to review situation and develop a fix, then get back to 9MR road committee. Mr. Barnett is responsible to fix the ditch blockage, as gate was installed by Mr. Barnett; installed in a ditch which will/can create damage to road due to water flow of rain and snow melt.) In said phone call Mr. Barnett shared that he is very ill with cancer and that the issue at hand is not priority at this time.

Motion made by Brian Rabe that the HOA move forward with fix of the Big Horn gate/ditch situation with a financial cap of \$5,000 with funds coming from the HOA savings/reserve fund. Seconded by Susan Stewart. Don Charnholm amends to add that the HOA will seek to get payment of costs from Mr. Barnett. Motion passed unanimously.

Snowplowing: Update on snowplowing. Last year snowplower, 24/7 Property Maintenance, responded to road committee regarding this coming season plowing. 24/7 is going to bring forth changes to contract from last year. Last year's plowing rate was \$120 per hour. After analyzing last year with wear & tear on their trucks they will increase rate to \$135 per hour. Also, sanding will be increased from \$150 a load for sand to \$275 a load. Given that the sand is dry stored and then hauled from Omak, 24/7 lost money last year to sand for the HOA. 24/7 suggested that the HOA place a pile of sand at the end of West Coral road, and then to have someone locally load it into 24/7 trucks. This would lower their costs of sanding for the HOA. 24/7 is offering to restructure their crews to having plowing crews more readily available during the day for plowing for the HOA.

Note that during this meeting there was considerable difficulty in Board members dropping off of teleconference. Re-contact was made before moving forward with business.

Another snowplower contacted the road committee, responding to flyer posted in town to solicit other snowplowers in the area. After sending them copy of the HOA snowplowing contract he responded that he will not be plowing for us.

Unanimous consent among the Board that the Road Committee will tell 24/7 to bring forward written terms for the 2020/2021 snowplowing contract, and that the Board has intent to sign contract but this will not happen until after the October 10, 2020 Board meeting.

Purchase of secret ballots and envelopes: Discussion of costs to the HOA for printing of 'secret ballots', and other administrative costs, for the potential upcoming ballot vote. A little research has been done on the costs of secret ballots.

Motion made by Kirk Johnson to have a \$500 cap for printing of secret ballots and to send out the ballot mailing. Seconded by Susan Stewart. This motion allows to the Board to move forward with ballot mailing, but will need to be fully researched and studied before hard costs can be presented to the Board. Motion passed unanimously.

Read into minutes:

Motion made on 9/18/2020 via email:

"Pursuant to Bylaws Article VI, Section 4 I am seeking unanimous approval outside of a meeting for the following motion:

Motion made by Kirk Johnson to spend approximately \$200.00 to immediately have HOA attorney Miller & Chase advise regarding legal controversy over the conflict between the recent '10% membership request for an annual audit' and the recent '28% membership vote to waive the annual audit'. Points/facts given to the attorney for their consideration will include:

- In June 2020, pursuant to RCW64.38.045(3), 28% of the membership voted to waive an annual audit, which was a passing vote.
- Two months later, in August 2020, the board received signed petitions from 10% of the voting membership to cause an annual audit, which complies with the minimum required at Bylaws Article VIII, Section 8(d).
- Regarding Bylaws, Article VIII, Section 8(d): It is phrased as relative to an *annual* audit, not an instantaneous audit and regarding any membership-chosen period of time. It is phrased within the context of the Treasurer preparing other annual financial disclosures and as relative to an annual membership meeting. So if this 'right of demand of audit' is relative to an annual regular audit then the membership has already recently voted to waive the annual audit, per RCW 64.38.045(3).
- There is a lot of gravity that 28% of the membership recently voted to waive the audit, which is far more than the recent 10% request.
- As we have been told by more than one attorney, in general RCW64.38 takes precedence over bylaws, so does the 'vote to waive' override the recent request to have the audit no matter what?
- Now consider the actual vote tally of the vote to waive the audit: (87) to waive it, (37) to have it. 37 votes in favor of having the audit *is more than 10% of the membership*, which would therefore meet the minimum required in the Bylaws to force an annual audit."

Motion failed: 7 yes, Pam Lewis voted no. (Per Bylaws motion requires unanimous approval to pass via email/outside of a meeting.)

Subject regarding membership petitions received:

Motion made by Kirk Johnson to spend \$200 for attorney regarding the audit (repeat of above motion). No discussion was offered forward by any Board member. Motion passed 7 yes, Pam Lewis voting no.

Note at this point in the meeting Susan Stewart's connection was lost and we were not able to retrieve.

Motion made by Brian Rabe to spend HOA funds for mailing of letter to membership written and edited by the Board via email. Seconded by Kirk Johnson. Motion amended to state \$200 for mailing. Seconded by Rick Lewis. Motion passed unanimously.

Motion made by Stacey Johnson to spend \$225 for attorney review of:

- whether there are provisions that the HOA will need to have the requested “compliance audit”
- advise/comments on the Board suggested handling of the CCR & Bylaws changes
- attorney bid for handling of ballot counting

Seconded by Brian Rabe. Brian Rabe amended motion to state *approximately* \$225. Seconded by Kirk Johnson. Board will request all attorney answers/advise is in writing to be able to share appropriately. Also, have attorney address how management of the HOA is conducted by the BOD, given that the cover letters with petitions have demanded a different path of handling the situation. Kirk Johnson amends motion to state cap of \$500. Seconded by Brian Rabe. Cost of attorney *written* responses will be looked at to create path of least cost to the HOA. Motion passed 6 yes, Pam Lewis voting no.

On going violation issue: On September 15, 2020 violator signed for receipt of certified letter sent by the Board on September 1, 2020. (The letter was regarding multiple significant CCRs violations & subsequent fines, such violations which the Board started addressing in December 2018. This is the same subject that has been addressed in two HOA newsletters.)

Meeting adjourned at 8:31 pm.

Board Meeting Minutes

Nine Mile Ranch Homeowners Association Board of Directors Meeting October 10, 2020

Due to the Coronavirus this Board meeting was held telephonically. Board members present; Kirk Johnson, Brian Rabe, Rick Lewis, Brett Coffman, Don Charnholm, Pam Lewis and Stacey Johnson.

Meeting is being recorded by secretary only.

All Board members stated they had no audience members present for the teleconference.

Meeting was called to order at 9:02 am.

A proxy was submitted to Brian Rabe for Susan Stewart. Pam Lewis submitted emailed information 6 minutes before the meeting stating that Board members cannot use proxies. Decision to not discuss this topic at this time unless it became an issue during the meeting.

Old Business

Regarding the prior perceived controversy as to whether portions of the Ranch roads Mallard Drive and Blue Grouse are actually encumbered under the Covenants for the HOA to be required to maintain: The Board has been working on this subject. Kirk Johnson read a statement to be in the record of the HOA, with request that consent be given on the following statement from the Directors:

“Pursuant to the official recorded Nine Mile Ranch map, specifically Okanogan county auditor's number 834872, dated November 9, 1995, and connectively alluded to in the map shown as auditor's number 836884, dated January 12, 1996; the roads and easements known as Mallard Drive and Blue Grouse Road, portions of which traverse through non-Nine Mile Ranch lots and intersecting with the county Nine Mile Road, such easement/road portions which have been maintained by the Nine Mile Ranch Homeowners Association for approximately 20 years, are indeed subject to the legal description as called out in the Nine Mile Ranch CCRs, Article V, Section 1, “A sixty (60) foot wide right-of-way shall be reserved on the final plat of the Property or shown by any instrument of record.”

Unanimous consent given by the Board.

Regarding the subject of recent attorney communication. Stacey Johnson brought the forward the following thoughts:

- Miller & Chase is an excellent law firm, but it appears they may be overloaded with work. It took over a month for them to respond to prior communication, and it seems regarding this current communication Mr. Chase rushed through it as he answered questions that we did not ask, and did not fully answer some questions we did ask. Of course, email communications can be confusing and difficult at times.
- Miller & Chase is excellent to use for moving forward on potential litigation issues in Okanogon.
- Upon retirement, Mr. Bergh (prior HOA attorney) recommended Mr. Paukert. Suggested that the Board consider using Mr. Paukert for answering basic questions for the HOA.

- Suggested that the Board give consent to the Legal Committee and President to have a verbal conversation with Mr. Chase to clear up confusion for questions & answers regarding petition issues. We would ask Mr. Chase to revise his letter to answer just the questions we asked to create clarity. Unanimous consent by the Board to have verbal counsel with Mr. Chase.

Discussion regarding petition issue:

- Need to clear up time line on when we need to have the Special Meeting and/or ballots to be sent out.
- Mr. Chase stated they cannot count our ballots due to conflict of interest; they suggested an alternative fiduciary. The HOA Policy states that the HOA have fully private ballots for all elections here forward. Do we need to pay a fiduciary to count the ballots if the ballots are fully private? Stacey will contact recommended fiduciary for estimated costs for counting. Stacey will also pin down costs for printing of blank private ballots and time line for printing.

Motion made by Kirk Johnson to name Mr. Paukert, Attorney at Law, for potential counsel from here forward upon Board consent or motion. Seconded by Rick Lewis. Mr. Paukert was contacted when the Board was soliciting HOA attorneys. Mr. Paukert worked with Mr. Bergh, is representing several other HOAs and members, and is presently on 2 HOA Boards. His quote back in June, 2020 was \$250 per hour. Miller & Chase would not be replaced, just have the option for using Mr. Paukert as well; an additional attorney that would be used for basic HOA questions. Stacey will contact Mr. Paukert to verify his hourly rate is the same as stated last June. Motion passed unanimously.

New Business

Discussion regarding recent Owner's request to have all Directors' names placed on the recall election ballot, as opposed to having just the 6 of 8 Directors as the current petition proposes. Ballot would include vote to remove each Director individually, each taking 156 to vote off the Board. What if all Directors were voted off? Would Barnett get involved again? Barnett is no longer a part of the HOA other than being a member. Members may be able to have a meeting, with quorum, that can elect new Directors. This could potentially be a serious problem. The HOA has legal obligation to honor request in placing all Directors on ballot. Unanimous consent given by the Board that all 8 Directors will be placed on ballot.

Read into minutes motion made between meeting on 8/10/20:

Motion made by Pam Lewis: *"I therefore make a motion that the minutes be corrected."* Seconded by Brett Coffman. Stacey Johnson amends motion to state: *"I amend Pam's motion to state that the July 2020 Board meeting minutes be corrected to reflect the first count on the Certification of Ballots, which is the same as what is stated in the July 2020 Newsletter."* Seconded by Pam Lewis. Motion passed unanimously.

Motion made by Brian Rabe to reimburse Kirk Johnson's reimbursement request. Seconded by Rick Lewis. Pam Lewis found \$5.80 error. She asked that we postpone reimbursement until she can go through the entire request in more detail. Unanimous agreement to table the motion.

Discussion regarding email received from Lot Owner Gary Lewis regarding Lewis Farms Enterprises. Decision to send formal communication to Mr. Lewis to move forward on approval and parameters of business.

Motion by Brett Coffman that the Board require Lewis to present their business in a written form, like everybody else has, with specific description of what their business will entail. Seconded by Rick Lewis. Brett will compose Board's communication. Motion passed unanimously.

There were slight amendments to the existing Elections, Ballot and Recount Policy submitted to the Board for consideration.

Motion made by Rick Lewis to accept the amendments to the Policy stated. Seconded by Brian Rabe. Discussion: Pam Lewis stated she feels that there should be legal advice on the Policy. Pam stated the part of the Policy that requires redaction and third party involvement for members to review past ballots in Policy may not be legal and we should turn over the ballots to those who requested them for review. Motion postponed until completion of discussion of what Pam Lewis brought forward.

Motion made by Pam Lewis to have legal counsel review the Election, Ballot and Recount Policy to make clarification that the terms of the Policy are legal. Seconded by Don Charnholm. Rick Lewis amends motion to include cap of \$250.00. Seconded by Don Charnholm. Discussion; whether or not ballot identities can be viewed by just any member has been remedied here forward as the Policy moves the HOA into using fully private ballots. Should the Board spend HOA funds on legal advice for all decisions or Policies written? Not spend anymore HOA funds on attorneys unless it comes to pass that we had to. Member can contest Policies through proper legal avenues if the choose. Communications from members state that they believe their ballots are private and should not be subject to identification. Motion for legal review failed; 6 vote no, Pam Lewis & Don Charnholm vote yes.

Vote on prior motion to accept amendments: Motion passed; 6 yes, Pam Lewis & Don Charnholm vote no.

Motion made by Kirk Johnson to spend \$225 for a newsletter soon to come, unless the newsletter can be incorporated with another mailing. Seconded by Don Charnholm. Pressing timeline for a newsletter is snowplowing information for members. Motion passed unanimously.

Treasurer Report

Current Cash Flow Report and Accounts Receivable Update Report were sent to all Board members via email. (Reports can be found on HOA website)

Pleased with collections considering the Covid situation. We've collected 87% of this years' annual assessments. There are under 6 Lots owing for last years' assessments, not counting those that are always passed due. Still collecting, which makes more cash available.

Motion made by Stacey Johnson that due to Covid and the governors' proclamation 20-51 that the HOA extend suspension of interest and late fees on past due accounts through January 1, 2021, to be re-addressed at the next Board meeting on January 16, 2021. Seconded by Rick Lewis. Governor Inslee has extended suspension of interest and late fees through November 1, 2020 at this time. Motion passed unanimously.

Notice of lien letters were sent out to the 3 Lot Owners scheduled to have liens filed on November 1st. Per Board direction, these letters were sent certified, except for one Lot Owner who resides in Canada. The post office did not allow certified mail to be sent to Canada.

An error happened. There are 2 credit cards used on the Treasurers' Amazon account; one is personal, the other the HOA's that is used to order office supplies. Treasurer's personal credit card and Amazon account was compromised. During process of remedy Amazon errantly changed the HOA's card to be the primary card charged. Personal charges have been charged to the HOA card coming out of the

HOA bank account. Charges will be reimbursed by Treasurer. There is full documentation of all entries.

Motion by Rick Lewis that spreadsheet done by Stacey Johnson showing Terms of Board Members be accepted by the Board and posted on the website. Seconded by Brian Rabe. Motion passed unanimously.

Road Report

Road Committee completed last weekend driving of all the roads in preparation for coming road work.

New road signs have been installed. (Thank you Bill Burnam)

Now that we have some moisture we can move forward with road work. Tim Mason will perform the repairs on the roads. Several haulers are lined up to lay gravel on the roads.

In-depth discussion regarding 9MR Road Report 10/10/20 (posted to website). Directors spoke about road areas of concern. Spots on Cougar and Gold Rush need serious work; some of it almost impassable and cannot snowplow. There are other places in this condition as well. These places would be considered Capital Improvements that could take up to \$25,000 to repair. Road Committee will finish analysis of roads that will incorporate those areas that require a large amount of work. This part of the analysis will be brought forward to the membership with suggested annual assessment for a vote to be put to the membership.

Working with Cash Flow Report and 9MR Road Report (both posted on website):

Motion made by Stacey Johnson that, using funds from annual assessments cash flow, the road committee perform #1, 2, 3, 4, 5, 6, 8, 9, 13 & 14 on Road Report, totaling \$13,119, less amounts that that are considered to be special assessment gravel for \$1,890; total to spend of annual assessment funds: \$10,036. #10 & 11 would be paid for from the reserve fund: \$5,345 (capital improvements). Seconded by Brian Rabe. Discussion: Seeking to always leave \$5,000 in checking. There are up-coming costs to consider that are not in the Cash Flow Report: legal fees, petition action costs, spring road work. There is \$23,000 of special assessment funds available for gravel at this time. Brett will create an estimate for capital improvement repairs on Cougar and Gold Rush. Big Horn Gate repair will cost less than originally estimated, but will not happen this year due to weather change. Concern about spending reserve fund money; that is what it is for. There has been \$3,000 deposits into the reserve fund for the last two years. Annual replacement gravel has always been the “give” in budget considerations. This shows clearly in the amount of boulder heads on the roads. The special assessment gravel will help with this, but there is just not enough funds to pay for annual replacement gravel and perform other repairs. Motion passed unanimously.

Discussion of maintaining private driveway culverts. The HOA is responsible for keeping the culverts clear. The Lot Owner has the responsibility to install the culvert properly. Suggestion was made to ask Lot Owners to volunteer to clean their driveway culverts. This request will be considered to add to the up-coming newsletter.

President asked for volunteers for snowplow coordinator. No Board members volunteered.

Motion made by Kirk Johnson to extend meeting ½ hour. Seconded by Don Charnholm. Motion passed unanimously.

Topic regarding submitted bids from 2 snowplowers: 24/7 Property Maintenance and Glover & Son. Consideration to have Glover be a back up plower. Glover & Son has one V-plow, is willing to store sand and sand the Ranch, 18 year old son would perform their plowing.

Motion made by Kirk Johnson that the Board approve the plowing contract from 24/7 Property Maintenance to be the HOA's plower for this year (2020 – 2021), and seek to cultivate whatever possible opportunities for Glover & Son to do augmented amounts of plowing. Seconded by Rick Lewis. Discussion: This does not obligate using Glover & Son. Priority is protecting 24/7 to being a successful plower for the HOA. Motion passed unanimously.

Board moved into executive session

Violator of CCRs did not respond to certified letter within the 30 days offered. (Offer was to waive all penalties if violator will comply.) Again, the Board has not received any response back from violator. In preparation for this the Board had already passed a motion in the August 29, 2020 Special Board Meeting for attorney to proceed with strategy, setting up arbitration and letters to be written. There is possibility that violator is attempting to sell/move or has ceased their commercial dog breeding business. It is the violators' responsibility to communicate if there are changes in the situation, but they do not communicate. Encroachment of easement with fence issue needs to be taken care of also. Letter would be sent to violators from attorney to move process into arbitration. Legal cost would be sought to be awarded back to the HOA. Majority of the Board confirmed to continue to move forward.

Motion by Kirk Johnson that in order to prepare for the event that violator may list and sell his property and we get an escrow solicitation to settle his account, that by majority of Board approval be ready to send a letter to violator at any time that has these features: reduce fines amount to whatever the total atty fees/other HOA costs are, and also include the cost to remove the fence, rocks, and other items in the easement, including fill in the holes if posts were concreted in. Seconded by Rick Lewis. Motion passed unanimously.

Meeting adjourned at 11:44 a.m.

Board Meeting Minutes

Nine Mile Ranch Homeowners Association Special Board of Directors Meeting October 30, 2020

Due to the Coronavirus this Board meeting was held telephonically. Board members present; Kirk Johnson, Brian Rabe, Rick Lewis, Brett Coffman, Don Charnholm, Pam Lewis, Susan Stewart and Stacey Johnson.

Meeting is being recorded by secretary only.

All Board members stated they had no audience members present for the teleconference.

Meeting was called to order at 7:17 pm.

Read into minutes email motion made between meetings:

Motion made by Brian Rabe: "In the best interests of the HOA to accomplishing necessary road work and management, I move to remove the existing HOA mileage reimbursement cap of \$200 per year for mileage reimbursement for the road manager and any other road committee member for miles driven in the course of their volunteer service." Seconded by Susan Stewart. Motion failed: 7 yes, Pam Lewis no. (Motions made outside a meeting need unanimous vote to pass)

Motion made by Brian Rabe: "In the best interests of the HOA to accomplishing necessary road work and management, I Move to remove the existing HOA mileage reimbursement cap of \$200 per year for mileage reimbursement for the road manager and any other road committee member for miles driven in the course of their volunteer service." Seconded by Rick Lewis. No discussion was brought forward by any Board members. Motion passed: 7 yes, Pam Lewis no.

Motion made by Kirk Johnson to post Board's email chain regarding reimbursement cap on the website so there will be transparency regarding this issue. No discussion was brought forward by any Board members. Seconded by Susan Stewart. Motion pass unanimously.

Summary of Meeting with Legal Counsel

Discussing regarding attorney meeting on October 27, 2020. Meeting was with Andy Chase of the firm Miller & Chase. Andy has extensive experience working for HOAs as well as municipalities.

Meeting with attorney was to address the petitions presented to the Board by the anonymous group fix-9mr, as well as ballots sent out and meeting called by fix-9mr. Items on the petitions were addressed as well.

Regarding the financial audit Mr. Chase explained that although our Bylaws give the Treasurer the *duty* to cause this audit, neither the Bylaws (Article VII, Section 1) nor the CCRs give the Board the *power* to take this action, ie. spend funds on this audit. In other words, it would be illegal for the Board to take this action. This is an example of how the structure of our governing documents need to be reviewed and amended.

Regarding the “compliance audit” Mr. Chase explained that nowhere in our governing documents, state law or case law does it allow the HOA to spend funds on this audit nor does it give the membership the right to require the audit. Any HOA member can conduct their own audits at their own expense.

Regarding proposed CCR & Bylaw changes by fix-9mr: The first words legal counsel shared after a quick review of the changes fix-9mr is proposing was verily, “this is not how you change your governing documents”. Legal counsel found the suggested changes to be needlessly complicated and some of it potentially in violation of RCW 64.38 (HOA state law). The basic structure of each document (CCRs & Bylaws), and how they relate to each other, needs to be addressed, and discrepancies need to be resolved.

Regarding removal of 6 directors Mr. Chase explained that legal due process would need to be followed to accomplish this. He also stated in reflection of how courts have actually ruled on this subject was verily, “An *election* is a popularity contest, but a *removal* is subject to valid reason.” And further, “Courts view HOA Boards just like public municipalities; not only can you not remove council members without *proof* of breach of fiduciary duty, but it could also cause harm.” Removing a director(s) is serious business. As in this case, if the 6 directors were voted off the HOA would be left with a non functioning Board of 1 or 2 members. Legal counsel warned of the liability of this; of the Board’s duty to not jeopardize the function of the HOA, especially when there has been no breach of fiduciary duty.

Regarding a special meeting requested by the membership: A special meeting has been properly requested by the membership. Covid will not allow this. A Zoom meeting could be had, but may be dysfunctional and cost the HOA additional funds. Miller & Chase has the ability to facilitate a Zoom meeting. Before Covid, proper steps would be for the Board to send out notice of meeting. At the meeting members can then make a motion to have a ballot sent to the membership for a particular voting issue. This would need to be seconded, then discussed, then voted on. If this motion passed, then a second meeting would be required to count the ballots.

In regards to the ballot and meeting called by fix-9mr: Mr. Chase stated that there are civil illegalities and potential criminal acts being taken by the individual(s) who have acted as ‘fix-9MR’. They have no legal right to send out ballots or conduct a meeting posing as official. He compared this to if a few citizens of Oroville were to send out a ballot to remove the city council: this action is invalid and illegal. Proper legal steps need to happen to remove *elected* officials. The Board of Directors manages the business of the HOA. Doing this anonymously is illegal as well. Mr. Chase suggested that he write up a Cease & Desist letter to put fix-9mr on notice. Mr. Chase felt this is a step that is in the best interest of the HOA.

Board Discussion

The Board then had a lengthy discussion on how to handle the special meeting petition especially given the Covid situation. The following is a summary of that discussion:

- All suggested items on petition that “fix-9mr” wants a vote on at the meeting cannot be legally conducted by the HOA.
- Removal of the 6 directors cannot happen unless there is legal due process.
- The Board could “**choose**” to send out a ballot with just the removal of 6 directors anyway. The other items would not be on there given that the HOA cannot legally spend funds for the

requested voting items. An explanation of why the other items are not on the ballot would be sent with this ballot.

- Suggestion that the attorney write up the ballot so members would have confidence that how the Board is handling this situation is legal.
- Sending out a ballot would cost yet more HOA funds and would not allow for due process. This could jeopardize the HOA. What happens if the 6 directors were voted off? No legal plan to deal with this. Business would stop. There's a possibility that only a few get voted off. If a ballot was sent then the votes would tell the Board what the members want either way and potentially end this situation.
- The Board does not legally have to send out a ballot for removal of directors due to lack of due process.
- The information that fix-9mr has sent to the membership and written on their website that influenced members to sign petitions and/or to vote on the fix-9mr ballot is based on lies and misinformation. This is an important factor.
- The terms are over in June for the six Board members slated for removal. Why spend yet more additional funds for this when a new vote for Board members will be coming soon?
- Many members have told the Board that they signed the petition not because they agreed with the items being presented to vote on, but they felt that a meeting might serve in this situation. They wanted to hear both sides.
- Many Board members felt strong that no ballot should be sent: "we do nothing other than communicate/up date members about the status of this situation."
- Final decision/consent was to send only a letter out to the membership to update on legal findings from attorney counsel. Letter needs to be simple, with bullet points, to honor those members that just want to know the quick facts. To save HOA funds a newsletter will be sent with the letter.

Consent to ask the attorney to draft an explanatory paragraph as to why voting to remove directors needs to follow a legal due process. This paragraph could be used in the letter to the membership. Also, to ask attorney that since the signatures on the petitions were solicited based on misinformation could that invalidate the petitions?

Motion made by Kirk Johnson for attorney to write and send a Cease & Desist letter be sent to fix-9mr. Seconded by Brett Coffman.

Discussion:

- This letter would put fix-9mr on notice regarding that the ballots and meeting actions are illegal. They cannot represent themselves as "official".
- This anonymous group needs to be stopped. Their actions are affecting the HOA. Members have told the Board they want it to stop.
- Concern of spending yet more funds of the HOA was discussed.
- Will this be a waste of HOA funds?
- Several Board members have offered to donate funds into the general account to help defray legal costs.
- A Cease & Desist letter may not stop fix-9mr, but it would benefit the HOA if things moved into to court in that the HOA ask them to stop and they didn't.
- Fix-9mr ballot and meeting are invalid. It will not affect the HOA other than potential cause more problems and stress for the membership.

Motion passed 7 yes, Pam Lewis no.

Legal counsel advised that Board email addresses connected with website not be the directors personal email addresses. Brett suggested that emails on website be connected with positions of the Board. Stacey will contact webmaster to discover easiest way to make these changes and will bring this information back to the Board.

Stacey Johnson asked the Board to start thinking about setting up process to revise/up-date/amend the HOA CCRs & Bylaws. This process will incorporate a membership committee and legal counsel. Board will start to address this topic in the January 2021 Board meeting.

Kirk and Susan will start working on the Newsletter that will be sent with letter to the membership.

Motion made by Susan Stewart to reimburse Kirk Johnson for submitted request of costs and mileage for \$189.39. Seconded by Brett Coffman. Motion passed 7 yes, Pam Lewis voting no.

Meeting adjourned at 9:41 pm.

Special Board Meeting Minutes
Nine Mile Ranch Homeowners Association
Executive Session
December 1, 2020

Due to the Coronavirus this Board meeting was held telephonically. Board members present; Kirk Johnson, Brian Rabe, Rick Lewis, Brett Coffman, Don Charnholm, Pam Lewis, Susan Stewart and Stacey Johnson.

Meeting is being recorded by secretary only.

Purpose of meeting was to address attorney letters received representing Association member James Mathis and Wayne Naysnerski. Attorney letters are threatening litigation against the HOA unless the Board calls a Special Membership Zoom meeting.

Meeting was called to order at 7:00 pm.

Actions Taken in Executive Session

Motion made by Brian Rabe: Pursuant to Bylaws, Article III, Section 2 whereas 10% of members can call a special membership meeting that the Board call Special Membership Zoom meeting. Seconded by Kirk Johnson. Motion passed 6 to 2: Pam Lewis and Stacey Johnson voting no.

Motion made by Stacey Johnson for her to contact HOA Attorney Miller & Chase to facilitate the Zoom meeting for the Special Membership Meeting. Seconded by Brian Rabe. Motion amended by Brian Rabe to included that Andy Chase, attorney, be present at the meeting. Seconded by Rick Lewis. Motion passed 6 to 2: Pam Lewis & Don Charnholm voting no.

Motion made by Kirk Johnson to vote on the following:

1. WHEREAS every HOA member has a right to require the Board to receive and attend to certain communications at the official HOA address (P.O. Box 332, Oroville, WA 98844), these communications which could including any of the following contents:

- a. official requests for inspection of HOA records,
- b. official proxies,
- c. official requests for membership meetings,
- d. receiving member payments,
- e. communicating changes of official notice addresses,
- f. questions regarding a Lot Owner's personal account with the HOA,
- g. official written assent to the removal of a director(s), and
- h. any other official correspondence/solicitation as allowed by law and governing documents,

and;

2. WHEREAS the HOA BOD email address is provided to the membership from the Board as a courtesy to Lot Owners for their convenience, not as a venue for harassment.

3. WHEREAS directors are volunteers and have no obligation to bear harassment and/or intimidation from Lot Owners or any other person, be that harassment coming through email, HOA post office box, or any other form or source of communication, and;
4. WHEREAS the Board has withstood consistent voluminous undue email harassment from Lot Owner James Mathis over a period of seven months so far, such harassment described as the following:
 - a. approximately (73) pages of emails received from Mathis which in total include voluminous frivolous and unfounded implications or direct accusations of director wrongdoing,
 - b. (12) statements of either direct threat or insinuation of threat of legal suit, against both the HOA and the directors individually, including one threat through an attorney, statements which are generally laced throughout emails with the obvious intent of trying to intimidate directors into acquiescing to his demands or false legal claims,
 - c. repeated and continuous veiled 'disclaimers' from Mathis accompanying his harassments/intimidations – descriptive words used copiously like “alleged”, “in my opinion”, and “likely” - used with the obvious intent to attempt to limit his legal liability while making continuous harassing claims and threats/intimidations against the Board,
 - d. repeated defamatory personal claims about directors, including widespread promulgation throughout the HOA membership of false accusations that threaten certain constitutional rights, and also including undue unsuccessful attempts to have state enforcement agencies prosecute Board members based on false and unsupported claims,
 - e. repeated and continuous harassments/intimidations in emails which are laced in junction with exorbitant numbers of requests for HOA documents, at such a volume and tone as to be on par with that like what happens in civil court discovery proceedings, including that often the only way to identify his official documents requests within the emails is to have to also wade and parse through pages or paragraphs of frivolous mean-spirited harassments and veiled intimidations, and;
 - f. repeatedly asserting, without substantiation, that Board members are constantly “under investigation” and obviously using this as a way to intimidate, and;
5. WHEREAS Mathis' harassment causes undue delays in genuine HOA business being conducted by the BOD, and;
6. WHEREAS the Board possesses email proof that Mathis is either one or the responsible party for the anonymous “fix-9mr” website that has for months promulgated volumes of conjecturous egregious defamatory claims to the membership and public at large about directors, and;
7. WHEREAS the directors have continuously resisted spending HOA funds on attorney counsel and/or response to Mathis' emails content as much as possible, and that the directors wish to continue to avoid spending HOA funds as much as possible, including avoiding seeking an anti-harassment court order against Mathis if possible, and;
8. WHEREAS the Board deems it to be very important for the health and success of the HOA that James Mathis' actions be hereby cast into the official HOA record for future volunteer directors and all HOA members to be aware of;

THEREFORE BE IT RESOLVED that all email communications from James Mathis are hereafter blocked from being received by BOD email addresses, and that a copy of this motion will be sent to James Mathis via USPS.

Seconded by Rick Lewis. Motion passed 7 to 1: Pam Lewis voting no.

Motion made by Don Charnholm to have attorney letters, received from Mr. Mathis' and Mr. Naysnerski's attorneys posted to the website along with report/update regarding Special Membership Zoom meeting. Seconded by Brett Coffman. Motion passed unanimously.

Motion made by Kirk Johnson to file lien on Mr. Wayne Naysnerski for fines charged to date. Seconded by Brian Rabe. Motion failed: 4 to 4: Don Charnholm, Pam Lewis, Susan Stewart & Rick Lewis voting no.

Meeting adjourned at 8:42.