

EAGLE BEND WEST COMMUNITY ASSOCIATION INC.

AUGUST 5, 2021, 3:00 p.m.

2021 ANNUAL MEETING

MINUTES

The meeting commenced with Bill Whitsitt introducing Bill Leininger, owner/broker of Dean & Leininger Realty, to discuss real estate trends in the Eagle Bend West area. Bill explained that Mr. Leininger is also the incoming President of the Montana Association of Realtors and has been instrumental in working with Eagle Bend West Community Association (EBWCA) and the Harbor Village Neighborhood Council (HVNC) toward building and maintaining relationships between the five HVNC associations and area realtors.

Mr. Leininger talked briefly about the real estate market and the difficulty in predicting it. He said that many of the cities in the state have low inventory and a lack of housing for workers. In the past there were many homes for sale but now that has changed. One question that is plaguing many areas now is how to maintain some low-income housing. There are no new subdivisions in the pipeline here in Bigfork. A few months ago, there were over 2,530 showings and now that is dialed back, and the market is slowing. Mr. Leininger said that this may be due to higher prices, but there are still a tremendous number of buyers. The members thanked Mr. Leininger for this overview of the market.

Call to Order: President John Cannon called the meeting to order and introduced the Board. The members present in person in addition to Mr. Cannon were Bill Whitsitt and Dave McIntyre. Dawn Underwood

was not able to attend but had provided a proxy. Stuart Cole participated by conference call.

Establishment of a Quorum: John Cannon noted that an Annual Meeting quorum consists of 25% of the 58-lot owner membership which equates to 15 lots represented in person or by proxy. Dave Roberts announced that a quorum had been reached with 29 in attendance and 19 proxies.

A motion to approve the minutes of the August 6, 2020, Annual Meeting was made by Bernie Slogotski and seconded by Loretta Baltad. This motion passed with all in favor.

President's Report: John Cannon presented a number of items that had been completed over the past year.

John Cannon explained that he had previously led a group of community members to review and revise the Design Review Guidelines. Upon completion and adoption of the revised guidelines by the community in 2017, the second project was to review and consider clean-up changes to the 1997 CC&Rs. Clean-up was required because the original CC&Rs included the other four (4) homeowner's associations. The goal was to reflect the new separate association by eliminating provisions of the CC&Rs that no longer applied to the Eagle Bend West. The project also included updating the CC&Rs to reflect changes in Montana law and the requests of many of the community members on particular topics. John pointed out that outside counsel was hired to assist, and a members' committee was formed to help. The leader on that committee was Bernie Slogotski. That committee came up with a number of recommendations. A dozen owners in addition to board members participated in the process. The Board then solicited a more formal input on changes that some of the homeowners

wanted to see. The proposals were then drafted and given to the members to review and vote on.

The Board met with a number of homeowners and talked about the changes that were being proposed. At the last Annual Meeting these changes were voted on. The end result was what was 56 of the 58 EBWCA owners participated in the voting and approved the clean-up amendment which had accounted for the bulk of the work on this document. Ninety-five percent were in favor of the “clean-up” changes made to the CC&Rs, and as of March 2021 these new CC&Rs have been recorded and are posted on the website. The other three (3) proposals were not adopted. All got more than 50% of the vote, but not the needed 67% “super majority” in order to pass. The least favorite proposal was the “fine program”. Next was the limit on rental homes for a period of 60 days, which received only 60% in favor. The third amendment was on the parking restriction for the “Class A” motorhomes and expanding parking access for additional recreational vehicles; this received 66%, failing by one vote.

The other major projects have been landscape modernization and improvements, including the work completed at the Canal Street entrance, and at the corner of Canal Street and Harbor Drive.

Architectural Report- Steve Dompier Chair of the Design Review Committee: Steve has been on the Design Review Committee for several years. There is new construction directly behind the pavilion and other projects are on the table. Lot 33 is owned by David McIntyre. Lot 32 and 34 are owned by builder Jeff Moser who is currently waiting to build on these two lots. Lot 2 is getting an extensive new entry way which is quite exquisite. Lot 22 is also being remodeled. There are many new owners within the development and many projects that

have been put on hold due to the shortage of lumber and shortage of employees.

John then reported that the Board has been discussing the need to replace the mailboxes. They were repaired but they will continue to deteriorate and need to be replaced in the future. This is still on the table, and they are okay for now and the Board will continue to monitor the situation. The Board overall has tried to stagger out some of the capital projects, so the homeowners are not burdened with capital costs in one year.

Bill Whitsitt gave a brief summary of common area ownership status. He said that street, sidewalk and other common areas within Eagle Bend West were never deeded to the homeowner's association although they were deeded in annexed areas. Bill explained that our roads and other common areas are technically the property of a defunct corporation and have been for some time even though EBWCA has maintained them and viewed them as belonging to our communities until the court actions and related title work of several years ago that led to the separate Harbor Village association being created. The Board had determined to wait until the bankruptcy court allocated the various roads and common areas in the other association and we finished our CC&R updates. He said that EBWCA would be filing for a quit-claim deed for uncontested ownership of these streets and common areas. The implication for homeowners is that we all pay taxes on the common area on your individual property tax as is noted by there being more acreage attributed to owners in their property tax assessments than is on their property plats. It was noted that with transfer to the EBWCA property taxes might be paid at a lower non-profit rate than individual homeowners pay. As a result, once title is acquired, it may be that the Board will consider seeking a property tax assessment process change.

John then addressed a non-existent project that had been rumored to have been under way; that is, the false allegation by some in the community that the Board is going to propose putting up some new or past amendment proposals to the new CC&R's. He said that there has been "zero discussion" of this, so members should disregard it if you have heard the rumor.

John said that there has been brief discussion when the idea of a kayak access point on Pavilion property was raised by a Board member. He said that the idea had just been at the conversational level and there have not been any plans, that no one is designing it, and no area has been designated.

Treasurer Report: This report was given by Stuart Cole via conference call. Stuart gave a brief review of the dues structure. He said that six years ago, the HOA had a disruption of finances, and the HOA was insolvent. The Board implemented a dues structure change, and we were back on our feet quickly. Stuart then said that over the first few years were able to lower from \$395.00 a quarter to \$375.00 and then another was able to lower them again to \$350.00. Stuart thanked Property Manager Dave Roberts for negotiating contracts and said that the Board has been fiscally responsible, has been able to keep our expenses in check and has not raised the dues until this year. A financial repairs summary of 2020 was provided, and it showed that expenses exceeded the cost of some unbudgeted items and dues were increased \$15.00 a quarter. It was explained that this was not due to legal fees, but to unplanned expense on drains, sidewalks and irrigation repairs. These repairs added up to over \$9,000.

Stuart said that 2020 ended with \$48,700 in Capital Reserve and \$24,800 in Operating Account and in Road Reserve a balance of \$67,000. He provided a six-month review of the financials for 2021. In

the Capital Reserve there is \$55,500 but EBWCA has not paid landscaping and that is over budget so this will get drawn down quickly. Our operating funds are at \$31,800 and this increases gradually over the first part of the year when not many expenses come, as the summer is when repairs and the bulk of the expenses come due. We have just had some major expenses in the irrigation system and pump motors and the sidewalks. We will need more money and may have to have a special assessment to pay for these repairs. The reserves are important and if we did not have Operating Reserve EBWCA could not pay our vendors and if we have no money then we would have to get a bank loan. The Capital Reserve is needed for the future events, such as the example of the mailboxes. The Road Reserve is also necessary. In 2012 the roads were chip sealed and the contractors said this would need to be done every 10 years. The roads are still in good shape and will not need to be done in 2022 which gives us a chance to accumulate more funds. Prices for this work fluctuates and therefore it is hard to estimate the cost to have this work done in the future and but still need more money in the Reserve to pay for this.

Questions and Answers:

One member had a question regarding the process to obtain ownership of the roads and common area. Bill answered by saying that for a time the Association was not aware that EBWCA did not own the roads and other common areas. He said that when it was discovered that we did not have title to the roads and all the common areas, there was no belief by our legal team that the ownership matter couldn't be straightened out since we had acted as the owner for so many years. The courts at both the District and Supreme Court level also ruled on the EBWCA's validity during the time it had kept up with the maintenance of the roads and had acted like the owners.

A question was asked regarding the waterfall pumps, with a member wondering how long they have been functioning. Dave Roberts said it has been five (5) years since we replaced the pump and at the time the cost was \$16,000. He said that now the worst case would be the motor replacement which would cost around \$8,000 to \$9,000 and the Board would know more on Monday.

There were questions regarding the kayak access idea. John responded by saying that the Board talked about it after one Board member had proposed the idea. After some discussion they acknowledged that they would have to get the five (5) other HOA's involved. There was no vote, just discussion. Some community believe we are doing it, but that is not accurate. Bill said the Board has received some wonderful community input already. He said that EBWCA has not raised the issue with the Yacht Harbor which owns the canal. And he added that there is also a permit issue that the Board has not investigated. He said that there are many things that would need to be evaluated.

Election of directors:

The five Board members are seeking reelection along with three (3) additional members. These are Aaron Rudio; Dena Brunskill; and Chris Walthall. Chuck Weyerhaeuser asked the three new candidates to explain to the members their agenda and what their platform would be.

Dena said she was a homeowner for seven (7) years and, in the past, had been on the Board for three (3) years. She said she would like to make the Board more transparent and more approachable. She said she would like to get the CC&R's done and tried to work with the current Board but did not feel they were very responsive.

Bill Whitsitt questioned what she meant by “getting the CC&R’s done” as they are complete and have been recorded with the county. He also questioned the remarks about transparency. The current Board is very dedicated to the community, issued many newsletters and was very transparent. Regarding the CC&Rs, Bill said he had called Dena and they met and talked in detail regarding the fine issue. The Board took her views into account and that the proposal which was voted down only gave the Board the authority to propose a fine system which would be approved by the community. Bill said that the Board had a good track record on input from the community and that the vote was postponed to address input from the community, including Dena’s. He said that if people are obeying the rules this should not be an issue, but that in any event the Board never had an intention to impose fines without public input.

Aaron Rudio introduced himself and stated that running because he and his wife felt their family did not have representation on the board.

Chris Walthall introduced himself and said that he had in EBW for 10 years and that he believes neighbors are pitted against one another and torn apart. He said he would like to make some. He has met with people in the association who do not want to come to the meeting. He believes we are a family, and we need to get along as we all want the same things. He mentioned having pot-luck dinners in the past. He is concerned that EBWCA will need \$9,000 for the pump and are over budget on the flowers. He is willing to work hard and have meetings without speaker phones and he wants the members to see the Board at work.

David McIntyre introduced himself and said he was honored to work with the existing Board as they have the community’s best interests at heart. He loved being involved and his only disappointment is how we

got here today and the misrepresentation of the Board by some within the community. He believes most of what was in the community about his involvement was not 100% true and all of the rumors frustrate him. He knows the challenges and is disappointed in the rumors. The kayak ramp was his idea and so in May he voiced his proposal to the Board. That day the discussion lasted 5 minutes and in the minutes of that meeting minutes show the idea was discussed and would be revisited in the June session. In June the Board talked about it again for 5 minutes and once again it was tabled. The Board gave him permission to show some members where it might be, and he showed these members and that was the last time it was discussed. Rumors alleged that it was approved, and ground was being broken, but that is not true; it was never voted on and just an idea. Dave said he appreciated working with both John and Bill.

Some members in the attendance did not understand the voting procedure and wondered if they could lump all their vote on one candidate. John explained that cumulative voting allows each lot owner to get 5 votes and you can put all 5 votes onto one person or divide votes among the candidates. This is very ordinary voting technique for many organizations, and it allows someone with a minority interest to have more equitable representation. Cumulative voting is in both the CC&R's and the by-laws.

Chuck Weyerhaeuser felt some were trying to manipulate this process by making phone calls to members to sway the vote. John said that the wrong is in the false allegations not cumulative voting. John stated that we have to be honest with each other and not make false statements about each other, the board or events in the community. John stated that he has been on the Board several years and has no personal agenda. John said that he simply brings a lawyer's perspective to the Board and makes sure that the Board is following the rules and then

implementing the rules as they are written. His job is to preside over the meeting; there are no special privileges in being President.

Bill Whitsitt talked about the letter from the new candidates that has been circulated among some members of the community but had not been presented to the Board. Against that background, he said that this past year has been tough due to COVID. He noted sharp divides nationally, that we needed to give grace during this time of seeing divisiveness fostered by some in the community. He said that this was especially true after our past such period and have come so far in reintegrating, obtaining payment of past dues and gotten back to a wonderful more harmonious community.

He said that he had come back to the Board to help finish some matters left over from the past and was honored to have been serving with the other Board members, Dawn and David. Stuart has a keen attention to our spending, and John with his legal background.

Then Bill discussed in detail each of the claims, allegations and desires expressed in the new candidates' letter. Bill countered and rebutted each of that claims and allegations that he considered to be false and misleading and presented what he believed were the accurate facts. He concluded by calling for such types of communications, and the verbal discussion of it, to always be truthful – and – complete – with full transparency as to agendas of each person involved. Bill stated that the role of the EBWCA Board should be in working for the entire community as opposed to only one or a few individual property owner members personal interests. And he said that in that way the Board can best do its job, and continue to do it better, based on good input which it always seeks.

Dave Roberts and Danae Hanson handed out director ballots. Votes were tallied by Danae and Bugsy Yarbrough: With the top five

candidates elected as directors. The results of the election were announced as: Bill Whitsitt, John Cannon; Aaron Rudio, Dena Brunskill and Stuart Cole:

The meeting was Adjourned at 5:05 p.m.

Bugsy Yarbrough Recording Secretary