



## Meeting Minutes

July 17, 2013

St. Leo's Catholic Church  
2109 Sulphur Springs Road, Inwood, WV  
Jefferson County

**Board Members:** Pete Appignani, Gap View Village, President  
Neal Nilsen, River View Park, Vice-President  
Elliot Simon, Blue Ridge Acres Civic Assoc., Treasurer  
Phyllis Smock, Stonebridge, Secretary  
Nance Briscoe, Cloverdale Heights, Membership Chair

**Other Attendees:** Bob Ayler, Spring Mills; Fran Auld, Ashton Forest; Thomas Graves, Webber Springs; Bruce Holtje, White Tail Ridge HOA; Kathy Holtje, White Tail Ridge HOA; Cy Kammeier, Webber Springs; Jean Kopper, Ashton Forest; Cheryl McConnell, Ryan's Glen; Danny Nutter, Inwood Meadows; Voe Piemaulk, Stoneleigh; RosaLee Riggins, Ashton Forest; Robert Ryan, Bentwood Estates; Janis Schiltz, Potomac Terrace; Ted Schiltz, Potomac Terrace; Steven Shaffer; Inwood Meadows; Trudy Slater, Gerrard Acres; Richard Sussmann, PMP; Jennifer Syron, Chapel View

The meeting was called to order at 6:50 pm by Pete Appignani at St. Leo's Catholic Church

### **I. Approval of May meeting minutes**

Neal moved to approve May 15, 2013 meeting minutes as presented. Motion was seconded by Nance. Motion passed without objection.

Summary of discussion notes from June 15, 2013 placed into the record. Quorum was not present at the time.

### **II. Executive & Committee Reports:**

**Treasurer Report**—Elliot Simon reported for the period covering June 16, 2013 through July 17, opening balance of \$5,321.57; deposits of \$190.00 and dispersals of \$75.00 and closing balance of \$5,436.57. Dispersals represented \$50.00 to Jefferson County Chamber and \$25 for Incorporation annual tax filing. Bank statement and cash flow statements placed into the record.

**501 (c) (3) status**—In order to complete form, some policy statements are needed regarding disbursements of assets. Pete asked Richard Sussmann to review form and help provide appropriate language to complete form.

**Membership Report** –Nance welcomed new members Bruce and Kathy Holtje representing White Tail Ridge from Mineral County and Ted and Janis Schlitz from Potomac Terrace, Harpers Ferry.

**Ad Hoc Committee on Bylaws**—no report

**Legislative Review Committee—Jennifer Syron**

The Bill was proposed in March 2013 and it did not make it out of Judiciary Committee. Jennifer is working with Senator Snyder to write the Bill with new language instead of the way it was drafted. Senator Snyder plans to introduce the Bill which will amend the Uniform Common Interest Act Chapter 36B on the first day of the 2014 WV Legislative Session.

Jennifer explained one of the problems with the current law is the Limited Expense Liability Exemption which a developer often chooses and this is the exemption many HOAs fall under. If the developer chooses to invoke Article 1-203, this exemption allows the developer to cap the average common expense at \$300 or less with CPI adjustments. If the developer makes this exemption the HOAs do not get benefits of disclosure such as additional costs or information about declarant control with regard to by-laws, meetings, and elections.

Another problem with the Act is that the Developer does not have to prove the cost of maintaining the community can come in under \$300 so many HOAs are living in communities being assessed at \$300 and it is not enough to maintain the community going forward.

The current Act was a model act prepared by the Uniform Law Commission and adopted by 7 states, but has been abused by Developers and for this reason the Legislative Review Committee is working to put language in the Bill which would address required Reserve Studies and disclosure laws with regard to community budgets.

Jennifer described additional language which would include provisions in the statute such as HOAs asking members to submit to non-binding arbitration before having to proceed to court. Jennifer described additional changes to the act which will require additional disclosures to potential homebuyers.

Pete reiterated the EPOHOA priority is to introduce amendments to update Chapter 36B which will help HOAs solve many of their existing problems.

Jennifer will be meeting with Senator Snyder in two weeks to continue working on the Bill.

## **Unfinished Business:**

**Activities/meetings in the past month**—Nance attended the Blue Ribbon Commission meeting of the Department of Transportation and Highways in Kearneysville.

The commission did not address anything about homeowners' eminent domain, or destruction of old or new homes or protection of property before road approval. The Commission had a list of tax provisions they intend to pursue. There is a survey on the EPOHOA web site and a list of the taxes proposed.

### **Report on Policy, web site sponsors and advertisers—Richard Sussman**

The committee recommends EPOHOA stay away from advertisers and stay with Sponsorships with a range of levels. The committee has a draft but recommends committee be made a permanent committee to approve sponsorships starting January, 2014. Pete asked Richard to present a position paper at the next meeting.

### **Policy on Legal Advice—Richard Sussman**

Richard presented an EPOHOA Policy Draft-Legal Advice. Requested changes include: Paragraph regarding Sources: eliminate the broken link no longer available and eliminate the source from Florida. Neal suggested deleting the words under General Guidelines "should feel safe when it" and also deleting the phrase regarding our standard response "should be the first thing we should always say". Once this is finalized, the policy will be considered at the next meeting.

## **New Business**

### **Organizational Retreat—Jennifer Syron**

Jennifer requested the Board choose a date for the retreat. She will send an email to the Board and get some available dates and places.

**Education Committee** – hold discussion at next meeting.

**Legislative Liaison**— In view of Jennifer Syron serving as the Committee Chair for Legislative Committee, Elliot moved to eliminate the two positions of Legislative Liaison. Phyllis seconded motion. Consensus in discussion was to communicate in writing to the two current representatives. Motion tabled.

## **Announcements**

Ed Thomas at PMP has offered two workshops on "How to Run an HOA" on August 17<sup>th</sup> and September 14<sup>th</sup>. Time and place will be announced.

## **Roundtables**

**Member issues**-- Discussion held regarding Berkeley County Tax Assessor's office still taxing common areas in Berkeley County subdivisions. Nance said she had talked to Berkeley Tax Assessor and he said he was having a meeting in three weeks with Director

of WV State Property Tax Division.

The EPOHOA web site has posted the document “Guidelines for Assessors on the Taxation of Common Elements of Common Interest Communities under the UCIOA.” Property taxes that a homeowner pays includes all amenities within the community, so a separate tax on the common property would be double taxation.

Bob Ayers of Spring Mills HOA reported that his association paid taxes in 2011.

If developer pays taxes while the property is still under his control and homeowner is being taxed for property purchased, it is double taxation, however once the developer turns over the property to the HOA, then the tax for common areas is separately taxed to each homeowner.

Crystal Lake court decision is also on the EPOHOA web site.

Nance also explained the fact that an HOA is made up of multiple lots including land designated as Storm Water Management area or a flood plain. The Berkeley County Tax Assessor believes this portion of land has to be taxed separately and if taxes are not paid on it, it can be put up for auction and the HOA actually loses a part of land within the development.

HOA has to check notices in the paper to find property that may belong to the HOA but has been put up for auction.

Pete asked for anyone to report to EPOHOA if their common areas are being taxed.

Nance pointed out if you have a money-making business within the community such as a swimming pool that is rented out, you have to report that income and pay taxes separately on that property.

Other issues—Bruce Holtje from White Tail Ridge HOA, Mineral County, WV reported there are not many HOAs in Mineral County, but he lives in a community developed 23 years ago, that is 1100 acres, with 106 lots with most in the 5 to 8 acres, 65 owners and a large number owning multiple lots. Some of the structures do not constitute actual homes. There are a number of small hunting structures. There are 12 full time homeowners that live year around in White Tail.

Bruce explained when the developer turned over the HOA to the owners, members would vote every year on assessments. Currently they pay \$100 per lot per year. The fees have not been adjusted in 23 years to the Cost of Living Adjustment. From time to time the maximum assessment must go up to 10 percent. Maintaining the roads is the primary use of the assessment. There are 76 culverts under roads that are deteriorating and that represents approximately \$100,000 in liability. During the first 15 years, the community did have a reasonable reserve account, but it has been steadily used to replace culverts and Bruce is finding it difficult to convince the owners to increase the assessments.

Bruce described some of the issues his community is facing. The main entrance culvert has to be replaced because it is perforated. After talking to WV regarding this culvert, the state agreed to install it at about a \$15,000 cost, if the community would buy the \$5,000 culvert. About 20 percent of the owners are delinquent. Bruce works to find consensus but it is a difficult task.

Neal moved to adjourn meeting. Nance seconded motion. Meeting adjourned at 9:00 pm

**NEXT SCHEDULED MEETING**  
**August 21, 2013, Wednesday, 7:00 pm**  
**Bedington Ruritan 3947 Williamsport Pike**  
**Martinsburg, WV 25401**  
**Berkeley County**

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