

Buffalo Creek Homeowners Association

Board Meeting Minutes - March 11, 2021

MEETING: The Board Meeting of the Buffalo Creek Homeowners Association was held at the Leeper Center on Thursday, March 11, 2021. Sally called the Meeting to order at 7:04 pm.

PRESENT: Board Members present: Sally Weiser, Bryan Lamoreaux, Natalie Ross, and Clayton Graves. Victoria Benjamin attended virtually. A quorum was established. Multiple homeowners were present. All 4 candidates for Board positions were in attendance.

HOMEOWNERS to Speak on Non-Agenda Items: Tom Strong, 8936 Smoke Signal Way, wanted to address the Board with respect to his pending request to replace his yard with Astroturf. He and his wife had a \$114.00 Water Bill last month and he can see no way to afford the Town's new water pricing. He had a sample of the product he wanted to install, which is nicer than past Astroturf products. This was passed around. It was pointed out that the Covenants are specific that Astroturf is not allowed within the HOA. The Board would get a legal opinion on what would need to be done to change this. Tom reported that this product runs about \$8.00 a square foot and would cost him about \$14,400.00 to replace his 1,800 sq/ft yard. Discussion covered the drainage required and possible heat mitigation. It was pointed out that the Cost of our Water Bill has been changed on hard costs as the Town has added a Base rate of \$66.00 on all water bills. With Sewer at \$22.00 and Storm Water Drainage fees at \$11.50 these base rates add up to \$99.50 before the water usage costs. A Water Bill of \$114.00 has only about a \$25.00 water cost in it, so replacing sod with Astroturf would not resolve the problem of a high water bill. Tom Strong also said he does not want to mow, fertilize, or weed either. There will be more water discussion later in the agenda.

MANAGEMENT REPORTS: Minutes were under discussion by request of Natalie. She had concerns about items left out that Management said they thought would be covered in the requested topic "Discussion Items" tonight. Management passed out copies of the Minutes to get the wording the Board wished to add or make changes to. A lot of discussion ensued, much of which did not address requested changes. Sally requested that the Board Members identify what changes they would suggest. Sally commented on the process of Roberts Rule for changes to the Minutes. The Board was unaware of Roberts Rule. Tim said he has been wanting to set up a session with our attorney to go over a Board Training session. Natalie questioned why the Management Company is doing the Minutes. Dan Sattler, past Board President, pointed out that while he was President of the HOA, the Management Company was charged with doing the minutes because there were multiple problems having the Board Secretary do the minutes. He felt that to get professional Minutes produced on time it was best to incorporate them into the Management Companies Contract to have them produce the minutes. Sally pointed out we hired the Management Company to do the minutes per the contract and that is why. Bryan pointed out this is not an Agenda topic and we should move on. Clayton made a motion to approve the Minutes which was seconded by Bryan. The motion carried by unanimous vote of the Board. **Financial** discussion covered the current collection efforts under way. About 15 letters for trash suspension and turning accounts over to the Attorney went out and we are hopeful that will

inspire more people to resolve their delinquencies. Our delinquencies have not been this high for about 6 years. Tim also talked about conversations with the Attorney on Abatement process. He would like the Attorney to cover this with the Board when we sit down with him. Bryan made the motion to approve the financials, and this was seconded by Clayton. The vote was unanimous to approve. Further discussion commenced on changes to the last Minutes. Natalie wanted it stated that she had pointed out that one homeowner received a violation and Tim's rental across the street was not cited. She wanted that in the Minutes. Tim pointed out that it was inappropriate to make such a claim without having first checked to see if it was true. He then presented three violations which were issued to the property in question. Sally stated that changes to the Minutes must be spelled out, written, and those changes need to be voted on. Sally pointed out that Minutes are amended at a Meeting after proper process. Sally asked if everyone was in agreement on this now and she appeared to get a consensus of the Board. There was a homeowner question about the delinquencies process and it was pointed out that the Board has always worked with homeowners along with following the Colorado Fair Debt Collection Practices Act process of allowing a payment system on delinquencies.

ARCHITECTURAL REVIEW COMMITTEE: Bryan wanted to point out the difference from Zero Scaping and Xeriscaping, stating these are drastically different. Natalie discussed the items in front of the ARC, one of which was a request to change the grading in the backyard. Management pointed out that any change to the grade is a huge issue. Engineers devise the grading of a development and these are approved by the Town prior to any construction taking place. No grading change is allowed to adversely affect any adjacent property owner and this Iron Horse area is in a high ground water area already. The HOA had a lawsuit filed by a homeowner on Iron Horse that Dan and Tim worked with the attorney on. It is suggested that any requests for grading change be run past the Town prior to ARC looking at it.

Xeriscaping – Natalie read what we have in the guidelines. Discussion covered plants required and/or allowed. The CSU Extension office is suggested as a source and guideline for recommended plants. Dan Sattler suggested the Northern Colorado Water District (NCWD), located 220 Water Ave in Berthoud, which has a huge garden display area behind their facility which has multiple areas of different low water landscaping ideas for homeowners to view and get ideas. NCWD lists the plants in each design area and discusses their low water impact. Clayton suggested bringing an expert in the field in to discuss this at a meeting of homeowners. The Board again talked about getting legal direction. Bryan said we are a great community and maybe we can lead for the whole Town. Bryan said he has created a new HOA web page for Xeriscaping. Sally said she would make some calls for more ideas. Bryan said let's get this going over the next few weeks.

HOMEOWNERS MEETING: The Town has relaxed meeting regulations and we should look at having our **Special Homeowners Meeting** and to have this scheduled for April 8, 2021. A quorum of Homeowners (set in the Bylaws as 5% of the homeowners or 18 homes represented) will need to attend in person or by proxy. Natalie pointed out that the Board can appoint someone to the Board to fill a vacancy that would serve until the next Annual Homeowners meeting where new Board Members are elected. Sally requested that Management send email notices to everyone that has email, send letters to those that do not have email and set out the signs at the corners announcing the meeting. Clayton will post on social media and other Board Members will work to get the word out. Management should put information on the notice about the Water Rate issue and Xeriscaping. Bryan talked about going to the Town Board about the HOA's Water Bill concerns. We should coordinate with other HOA's and citizens groups. Tim

pointed out that the Town is reporting that there are 3,244 homes in Wellington. The Town appears to have developed beyond their ability to produce water. He has heard many concerns that the water restriction is now damaging property values. It was discussed to have Bryan and Tim come up with some survey questions, like a Survey Monkey, to get the opinion of the HOA and get their authorization for the Board to represent the HOA to the Town Board. It would be good to coordinate with the community and flood a determined meeting. Maybe the press could cover this meeting. With Water restrictions, and pricing water so high that homeowners can't afford to use it, the Town appears to be taking our paid for water to cover their unrestricted growth, benefitting a Developer or Developers. If every home is required to bring 1 acre foot of water why are they not allowed to get use of that water. It was pointed out that we've only been discussing homes but there are also businesses and schools pulling large amounts of water. Dan said he has concerns about the amounts of money the Town has spent without results. The Town is spending \$27,000,000.00 on North Poudre #3 where we had approved a project much less expensive 3 years ago to deal with this same issue, but neither have been completed to date. Natalie complained about the quality of our water. Pink water, gray and chunky things come out of the tap. Homeowners complained about the Town's mismanagement. Unused toilets get black rings most likely from the carbon they dump in to cover the taste and odor in the summer.

Violations Ted felt the warning letters are good and are a good kick in the backside to get things done. He does not think it is a good idea to have to take pictures of every violation. He does not think it is proper to disclose the name of the compliance person in today's cancel culture where people say the worst things on social media. Tim pointed out that the compliance person identifies properties out of compliance and a letter goes out. At the point a violation is charged he goes out and verifies it prior to sending the Covenant Violation fine out. This actually works as a dual control from Management and should alleviate any fears that one person would pick on anyone needlessly. He will instruct to take pictures at the time of violation, but in most cases, this is already done. Every letter sent out has a paragraph stating that if you disagree with this notice, please contact us. If you have a special situation, please contact us. This allows us to go out and see if an error was made. (We have a lot of homes with the same address and errors have occurred (maybe once or twice a year) where it was the same address but a different street name). Noted errors are resolved and a note is put into the file pointing out the error. Disagreements are supposed to be filed within 7 days of the notice. If a homeowner contests the findings, a Board "Hearing Request" form is sent out, which is the proper procedure the Board is supposed to adhere to. The Board then hears the case in open session. They can go into Executive session at the end of the meeting to deliberate on the merits of the case and the findings should be presented when they come out of the Executive Session and that decision is identified as a Board Decision. Tim pointed out that these issues over the last few months which did not follow the Hearing Request process from a couple different homeowners did not result from homeowners claiming the violation did not exist, they just wanted to get refunds. The Board should always follow the Hearing process before hearing any case. Natalie pointed out that we had wrong addresses on the map and some errors happened. Alden Gaw, past Board member, went around and fixed those. Natalie was not aware of that. Bryan affirmed that the maps on the website have been updated with the correct addresses from Alden. Natalie thinks Tim is picking on individual homeowners. Theresa Kenney, Painted Horse Ln, said this arguing is just going back and forth. If a homeowner complains to a Board Member, you should just take their name and email address and get the information to Tim and let him respond back to you and the homeowner. Board members should refrain from inserting themselves into the issue. Let Tim do his job and respond. Do not insert yourself. Sally said that only a Board decision is

appropriate. One Board Member should not make unilateral decisions. Tim pointed out again that someone else is doing the drive through and Tim verifies as they get to the fine stage so by logic, he is not picking on anyone. Sally tabled this as it keeps going back and forth. Bryan said it would be good to have the information from the file when homeowners come in. Tim again said it would be good to have the attorney cover proper procedures.

Williams Hearing: A weed warning letter was sent out to the Williams on 8/14/20, a fine letter of \$50.00 was sent on 9/1/20 and a \$100.00 fine letter was sent on 9/15/20. The property was not noted as a violation on the 9/29/20. Anita Williams, 8836 Raging Bull, said she sent the letter to the Board and was hopeful that a solution would have been found at the last meeting. Tim said the Board had the copy of the letter, but they had not forwarded it to him. The Williams are Landlords for the property. An official Hearing was not scheduled, and the file information was not available to the Board at the last meeting. Natalie said that the packet should have been presented at the last meeting. Tim had a conversation with Mr. Williams over a bounced check and he informed him that a credit for the last fine of \$100.00 had been issued. Since he had called him on the bounced check, Management said they would not charge the bounced check fine of \$20.00 even though there would be costs of processing the bounced check and redepositing it. At the end of that conversation, Tim had thought the issue was resolved and that the Hearing was no longer necessary. There was never any discussion that the weeds did not exist. No official Hearing Process was scheduled nor was it on the Agenda for the February meeting. Agendas are sent out to the Board, in the Board Packet, several days prior to the meeting and if the Board thought this was still an issue they should have responded when they received the Board Packet that an item was not listed. Mrs Williams had received a past due statement on January 23rd showing her account past due 144 days for \$50.00 with a warning of possible trash suspension and she was upset as she wanted this fine refunded too. An official Hearing Packet was produced with the file records for the March Board Meeting allowing the Board members to review all the information pertaining to this violation. There was also the inclusion of a similar Hearing situation from 2017 dealing with a dead tree and fence repair violation. Mrs. Williams said she has been a property owner since 2013 and thinks she should be given consideration. At the previous meeting Mrs. Williams said that the renter was a First Responder and was often away and did not have time to do the weed mitigation. Tim questioned whether the renter's wife was at the property while he was away. It was reported she was there. Tim asked why the wife did not resolve the weed issue and if the renters were not handling the weed issues, why didn't they resolve it as the homeowner. Mrs Williams said that the renter is a first responder, and we all know that this has been a stressful year. Clayton requested clarification that someone was at the residence during this weed violation time. Mrs. Williams said she does not know when they are there or not. Sally asked if Mrs Williams knew she was ultimately responsible for her property. Sally and Clayton asked her what she wanted from the hearing. She thought all the fines should be reversed. Clayton asked why she thinks she should get the refund of the \$50.00 after we have already refunded \$100.00. She said she was not even home when the fine was charged, they went on vacation in September. Tim pointed out that the violation letter was sent August 14th so they had notice prior to leaving. Mrs Williams said that she thinks homeowners should have 30 days to correct problems. The Covenants state that homeowners are allotted 14 days. Every letter asks that if there are extenuating issues please contact us immediately, which did not happen. Clayton pointed out that the Covenants were followed and that this seems to be an open and shut case. Clayton stated he does not see a reason to give the \$50.00 back when we have already given \$100.00 back. There is a violation that needs addressing. Tim pointed out that most landlords in the HOA require the renter to

uphold the HOA Covenants in their rental agreements and if they do not the fines are passed onto the renter. Sally points out an email received from Williams to Tim that states \$100.00 was refunded. Sally called for a motion. She pointed out that the \$100.00 was refunded. Clayton said that he felt the \$50.00 fine should stand and we should move on. There were no motions from the Board for refund of the \$50.00. Sally pointed out to Mrs Williams that the \$50.00 fine would stand.

Xeriscaping: Natalie pointed out that the Covenants require a minimum of 2,000 up to 2,900 sq/ft of sod per home. Clayton said that Xeriscaping guidelines he investigated say do not pull out your sod. Tim said that in Xeriscaping meetings he has attended they have pointed out that sod helps cool the house due to the evaporation process. If the Board finds a legal way to get homeowner approval to allow something like the product brought in tonight, guidelines will need to be extremely specific.

Reserve Study: Tim pointed out that last time we did a reserve study we paid \$1,800.00. We can simply go from that study and make cost of living adjustments as we did not really add anything new – other than the sign at Washington and Buffalo Creek Parkway. Everything else is being accounted for in our current Reserve requirements for repairs and replacement. When we spend those funds for repairs or replacement, we need to replace those funds to stay within the guidelines. The Board consensus was to stay with our old one and adjust appropriately.

Natalie stated one of her cost saving concerns is with Water Dogs billing the HOA \$75.00 per hour on the replacements of the spray heads along Co Rd 9. Tim pointed out we pay Zak George \$80.00 per hour on Emergency/Special Projects and that they have had a markup of about 300% on parts. On enhancements Zak George charged \$60.00 per hour plus parts. Travel time appears to have been added into their billing also. Bryan pointed out, back a few months ago when we were talking about this, we elected to go with Water Dogs to have it done right the first time and looking at the parts mark up, where Water Dogs charges us the Wholesale price direct, it made sense to go with Water Dogs. Sally pointed out that we had 300% markups from Zak George and that's why we voted to go with Water Dogs to get the Wholesale prices. Tim pointed out that under Greening Up their Water Tech charged \$75.00 per hour and they only charged us cost on parts. (Tim thought there may have been a slight markup but only 5 to 10%). Sally asked Natalie if she was not aware of that when the Board discussed it. Natalie said she was, but that it was not reported that Tim was a part owner of Water Dogs with Scott and that this is a conflict of interest. Tim pointed out that it had been disclosed in the past and whenever the Board requested Scott be brought in it was always voted on and approved by the Board prior to his doing any work. Homeowner Ted Craig questioned if Scott was an hourly rate or if he contracted with a sub. Ted Craig reported that from his experience he knows there are costs associated with Scott's operation and that he's probably netting \$40.00 after costs. If the HOA is just paying an hourly fee of when he is actually working on site and no mark up on materials, this is a good rate from what he's seen. Natalie said the costs seem high from what's on the financials. Bryan pointed out that some of that cost was his repairing problems that were caused by an inexperienced Zak George Employee and then the replacement of all of the heads along the curb of Co Rd 9, so costs should be way down this year. Tim explained that the big project along Co Rd 9 was replacing about 290 4 inch pop up spray heads with 6 inch pop ups to deal with the continuing costs of raising heads each year, having to put an inch riser under the heads which were getting covered up by the blow in dirt from the dairy. The Board had requested Scott to put in 10 heads for them to see the difference before voting on the full replacement. All of these

heads would be paid for at wholesale pricing to save a lot of money. Natalie said she is only trying to save money. Bryan said that the Board has renegotiated contracts and has worked to cut the HOA's costs. He said we are saving money in the long run having Scott do certain projects. Sally agreed that on some emergency repairs we had Zak George do the cost were so high where when we bring in Scott, it gets done right the first time and saves us money. Dan Sattler, past Board President, pointed out that under Greening Up, they would come in and just patch a job as cheap as they could. When they started using Scott, he would fix things the right way. There was disclosure about Scott when he first came in and the Board elected to use him.

FENCE BIDS: were discussed. Tim had two bids come back for the staining of the fence along Stampede, both sides from Raging Bull to Co Rd 9. Shade Brothers was the low bid and in all past bids (probably about 7 over the past 8 years), they always came in the lowest. They started their business while living in Buffalo Creek and have always given us great bids. One of the past Boards gave Management direction to just have them do the next section without going through the bid process, however Tim felt with the new Board it best to get bids for consideration this year. Bryan said he is definitely on board with going with Shade Brothers for this. Sally agreed stating they do quality work and have painted a lot of homes in the HOA. They used to live here and have done a good job for us in the past. They did her house, and she was incredibly happy with them.

NEXT BOARD MEETING: The next Board Meeting will be the **Special Homeowners Meeting** for elections. It will be held Thursday, April 8, 2021, starting at 6:30 pm with sign in at 6:00 pm at the Leeper Center.

Executive Session: Bryan said we will be going into an Executive meeting this evening for negotiation with regards to a homeowner situation. Victoria was no longer on the virtual platform. Clayton seconded. Motion passed unanimous. At 10:08 Bryan made the motion to exit the Executive Session. This was seconded by Clayton and passed under unanimous consent.

Tim would offer an Agreement to the homeowner discussed, to suspend one of the two Trailer Violation fines under an agreement of no further violations and no delinquencies for a period of 6 months. If during those six months a violation or a delinquency occurs the suspended fine is required to be paid, but if there are neither, the fine will be officially waived.

ADJOURN: With no further business before the Board, at 10:09 pm Bryan made the motion to adjourn which was seconded by Clayton. The vote was unanimous to adjourn.