

Horseshoe Ridge Homeowners Association Meeting

**Fruita Civic Center, Rotary Room
325 East Aspen, Fruita, CO 81521
6:30 p.m., Tuesday, February 7, 2006**

AGENDA

- 6:30 p.m. Opening Remarks, Introductions
- 6:35 p.m. Financial Report, HOA Dues
- 6:40 p.m. Senate Bill 05-100, Amendments to the Colorado Common Interest
Ownership Act, Info Center, Web Page (Action Item)
- 6:50 p.m. CC&R Enforcement Legal Briefing, Q&A (Action Item)
- 7:05 p.m. Recreational Vehicles Storage (Action Item)
- 7:20 p.m. ACCO Report: Proposed Landscaping Definition, Play Equipment
Discussion, Update on Enforcement Activities
- 7:35 p.m. Pond Committee
- 7:40 p.m. Neighborhood Watch Committee
- 7:45 p.m. Irrigation System and Water, Haying Operation Committee
- 7:55 p.m. Prairie Dogs
- 8:00 p.m. Nomination and Election of Officers
- 8:15 p.m. Open Forum
- 8:45 p.m. Adjourn

MEETING MINUTES
Horseshoe Ridge Homeowners Association Annual Meeting
Fruita Civic Ctr., Rotary Rm.
325 E. Aspen, Fruita, CO 81521
Feb. 7, 2006

Attendees:

Dave Wetherell	Mike Kerstetter	Wayne Carruth
Carol Wetherell	Scott Vincent	Amy Carruth
Doug Levinson	Barbara Hohenegger	Jerry Graves
Mel Lloyd	Peter Hohenegger	Megan Graves
Kirby Lloyd	Judy Bangert	Tim Coakley
Russ Hynes	Larry Bangert	Kristin Coakley
Judy Hynes	Clyde Jex	Evelyn Steele
Paul Nelson	Barbara Jex	Larry Steele
Mike Stolle	Mark Harris	Steve Nolan
Margie Stolle	Robyn Harris	Patty Nolan
		Wayne Stout

Opening Remarks/Introductions

Dave Wetherell opened the meeting at 6:32 p.m. There was a round of introductions. Wetherell provided a summary of the past year's progress and challenges. He reminded members of the survey they were asked to complete last year and reported that the board had used that as its guide in conducting business. The dead cottonwoods in the outlot below the pond have been cut down and all but a few large stumps removed. The hayfields were leased by Ward Studt, and the irrigation system maintained and monitored by both Wetherell and Studt. Wetherell explained the procedure the board followed in enforcing the Declaration of Covenants, Conditions and Restrictions, which ranged from courtesy calls to certified mail notice to a second certified notice using stronger language. The new board will likely need to continue these enforcement efforts as a few challenges remain.

Wetherell noted a change of order in the agenda. The two topics that would likely require the most discussion time, CCR enforcement and RV storage, were moved toward the end of the agenda, but before board elections.

Financial Report, HOA Dues

Doug Levinson provided a report on HOA finances (see attachment). Major expenses for the HOA in 2005 were a valve repair in the irrigation system and the HOA liability insurance policy, which has \$1 million in coverage and an officers' addendum. Dues for 2006 are due and payable at tonight's meeting. Evelyn Steele asked about the irrigation water payment. It was noted that the books should reflect that the HOA's water was paid for by Studt as part of the contract to farm the hayfields.

Architectural Control Committee (ACCO) Report

Proposed Landscaping Definition: Kirby Lloyd noted the hand-out regarding landscaping (see December mailing). It is recognized that the language in the CCRs addressing what

constitutes landscaping is vague. Lloyd asked members to look at the proposal and offer suggestions to the ACCO for improvement. Rules and Regulations will be developed as a way to update the CCRs, and more definitive language on landscaping will be included.

Play Equipment: No one on the ACCO or board feels it necessary at this time to implement language addressing play equipment. Lloyd asked that members be sensitive to their neighbors when locating play equipment and paint playhouses the same color as the residence. Consider passing the equipment onto “Habitat for Humanity” or a needy family once children no longer use it.

Enforcement Activities: Landscape enforcement letters were sent to five households in October 2005. All but one home, 1383 Bridle Path, has submitted a landscape plan. The spec house on Bridle Path is now due to submit a plan, and Lloyd will be contacting the owners. There are several homes that need to landscape this coming season. The owner of 1382 Horseshoe submitted house plans, which were approved, but there’s no sign of activity yet.

Wetherell explained what the board/ACCO expectations were for completing landscaping. Because of the size of the lots and the associated costs involved, completion of landscaping in stages would be allowed as long as there was continual progress and weeds were controlled. Irrigation water generally comes on April 1 and is turned off anywhere from mid-October to November 1.

Pond Committee

Wetherell introduced Larry Bangert, who had previously agreed to chair a pond committee. Bangert invited members to sign up for the committee and explained that his goal is to make the pond a beautiful asset to the HOA, not a liability. Several members volunteered and will work to eradicate tamarisk, applying chemicals to reduce that, the cattails and weeds. Protecting the fish will be a priority with Bangert, who plans to start organizing work on the pond once they’re settled in their new home (spring 2006).

Neighborhood Watch

Members agreed last year on the need to establish a Neighborhood Watch, and Barbara Jex will move forward on organizing a meeting this year. The date will be published in an upcoming member newsletter. Wetherell reported on the theft of a refrigerator and door from a home being constructed on Bridle Path.

Prairie Dogs

Susanna Clark Smith was unable to attend tonight’s meeting but provided a hand-out on prairie dogs and options for controlling them (see attachment). Many residents are concerned about prairie dogs, but realize vacant lots and the surrounding farmland work against us.

Irrigation System, Water and Haying Operations Committee

Wetherell noted that some complaints were received from members who disagreed with last year’s arrangement with Studt to hay the outlots and explained that given the immediate need, it was the best arrangement at the time. He asked for suggestions on others who might be interested. Kirby Lloyd stated that Gerry Ducray knew of some potential farmers, and he would work with Ducray to explore those opportunities. Wetherell cautioned that the HOA is

a not-for-profit corporation and to keep this in mind in forming future deals. Studt has expressed interest in continuing the current arrangement for this year.

Senate Bill 05-100

Wetherell briefed members on the impact of SB-100 to the HOA. SB-100, which became law on January 1, 2006, requires modifications to the Colorado Common Interest Ownership Act. Wetherell proposed forming an SB-100 committee to incorporate the new procedures into the HOA bylaws. Having worked on similar tasks in the past, he anticipates the project to take about 4-5 weeks. Wetherell noted the SB-100 hand-outs, which are intended to fulfill the required annual educational provision for members. The legislation is already being reviewed for updates, and more changes are likely.

Mel Lloyd explained the hand-out on the proposed HOA message center, which would provide a secure way to post meeting notices and other important messages. A local business, All Metals, estimated about \$1,300 to fabricate the structure, which could be installed in a central location within the subdivision (see attachment) for another \$400-500. She also asked members to consider volunteering to develop a web site for the HOA. It would be an effective and convenient way to communicate to members. The URL "horseshoeridgehoa.com" was available at Register.com.

CCR Enforcement Legal Briefing

Wetherell first explained that the Board had communicated with the owners and tenant of 1383 Bridle Path Ct. through telephone conversations, meetings and/or certified mailings, but they remained in violation of several provisions of the CCRs. As provided by the CCRs, the board began assessing fines several months ago, which now total about \$2,800. Filing a lien was considered but dropped after a telephone conversation last summer with an attorney who discouraged it.

Close to 20 attorneys were either contacted or referred in the board's search for a qualified attorney familiar with HOAs and real estate. Many had a conflict of interest and several were too busy to even consider our case. Wetherell reported that Mel Lloyd and he met with attorney Fred Aldrich on February 2 to obtain an opinion on options for dealing with the problem property. Aldrich supported filing a lien against the property, along with writing "cease and desist" certified letters to both the owners and tenant, giving them 30 days to comply. If compliance was not met, he suggested filing an injunction lawsuit, which involves three stages: temporary restraining order (unnecessary for our HOA given the board's previous enforcement efforts), preliminary injunction (HOA provides court with evidence of non-compliance and participates in hearings), and permanent injunction (involves more extensive trial with cost recovery provision if successful). The average cost in this type of litigation is \$7,500, or about \$200 per lot owner. Out of the 12 injunction cases Aldrich has tried, he has been 50 percent successful. Aldrich noted that poor evidence and petty claims are usually the cause of failure; it is best to focus on one or two violations (landscaping/storage/screening).

Aldrich also recommended that the HOA begin immediately to update its bylaws through formal rules and regulations, at which time a new set of fines could be imposed if desired. It was noted that the board sought compliance not money.

Discussions ensued on enforcement options. It was noted that if the HOA does not pursue the violations at 1383 Bridle Path Ct., it sets a precedent that makes it difficult to achieve compliance with any property. Assuming all annual dues are collected, there are adequate finances to retain Aldrich to proceed with the initial litigation. A member stated that litigation should be the last resort and that HOA funds would not likely be recovered from the violating parties. The problem property was suggested as the reason neighboring properties aren't selling, and it is likely damaging all of our property values.

Bangert made a motion to pursue litigation, Hynes seconded the motion. Levinson stated that members should reconsider and not act so hastily. Another member worried about what would come after jail time and the fines were paid—the situation needs to be settled permanently. Paul Nelson, a local realtor, confirmed that not achieving compliance would have a negative impact on all property values and the CCRs would be worthless. He added that Fred Aldrich is a fine attorney.

Wayne Stout, the tenant living at 1383 Bridle Path Ct., was present and invited to speak to the issues surrounding the property. He explained that the owners were divorced, and he is making their mortgage payments for them. He indicated that he did not receive a copy of the CCRs until nearly a year after moving in. Stout stated that owners Poulson and Steckman are in breach of contract with him, and that he provided a landscape plan to Poulson for submitting to the ACCO prior to December 15, 2005. [NOTE: Stout moved in mid-October 2004. Mel Lloyd delivered copy of CCRs on April 3, 2005. Per board member conversation with Poulson on February 10, 2006, Stout received a copy of the CCRs at move in and signing of lease, Poulson has never requested nor received a set of landscape plans from Stout, and contrary to what Stout claimed, Stout is constantly late in making rent and in breach of contract with Poulson/Steckman.]

Stout was drilled by several members for not cleaning up scattered trash and toys; not storing and clearing out unused equipment, RVs and vehicles; and not screening the trash dumpster. He was asked why he didn't take care of the property if he wanted to buy it. Stout indicated that he didn't want to put money into the property until he closed on it. Stout stated that he was selling his oil and gas company for \$28 million and that money was not a problem. Once that sale was completed, he'd have time to clean up the property.

Bangert again made a motion that if the property was not cleaned up within the next 60 days, starting with today, then legal action would be taken by the board on behalf of the HOA. The motion was seconded and called to question by Larry Steele.

Concerns were expressed over the additional money that would be required. Bangert stated that, while \$200 might seem like a lot of money to the younger members, it was not that much money when you're talking about your property values. Steve Nolan reminded members of the chronology document (see December mailing) and pointed out that it

appeared that the board had exhausted all other options; it was time for litigation. Mel Lloyd advised members that violations went beyond “cleaning up” the property. Beyond the scattered trash and storage/screening issues, trespassing by the Stout children, the unfinished and unkempt structure, lack of landscaping, inadequate driveway surface, ingress/egress issues, unleashed dogs, as well as off-road vehicle riding within the subdivision must also be included in the motion. The motion was revised to:

“If the property at 1383 Bridle Path Ct. is not permanently cleared of scattered trash, toys, unused equipment, RVs and vehicles; remains unfinished and unkempt; and if plans are not submitted for approval and immediate action on dumpster screening, driveway improvements and landscaping; if the Stout children trespass on other lots or abuse common areas; the unleashed dog is allowed to run free; and if any kind of off-road vehicle riding within the subdivision occurs in the next 60 days, starting with today, then legal action will be initiated by the board on behalf of the HOA.”

Steele again called the question to vote. There were 24 votes for the motion, no votes against. (Wetherell and Mel Lloyd had eight proxy votes between themselves.) The motion passed unanimously. Members asked to be notified by the board prior to initiating litigation.

RV Storage

Wetherell explained the history of events regarding RV storage. The majority of members attending last year’s meeting opposed any kind of RV storage on the lower common area to the west. Property owners approached the ACCO late last year about storing RVs below their homes on the lower ends of their own lots, providing screening proposals as part of the process. [NOTE: Stout left the meeting at 7:50 p.m.]

Tim Coakley stated that he will not pursue this option and has decided to sell instead. He also added that members of the HOA have no responsibility to the surrounding properties not in the HOA.

Russ Hynes expressed his concern with vegetation ever growing big enough in this climate to adequately screen RVs.

Open Forum

A member stated that the language addressing landscaping needs to define what xeriscaping is. He felt that mowed, dead weeds are not xeriscaping. No action was taken on the definition. The ACCO will build on tonight’s hand-out. Another member felt that property values benefit from having a variety of landscapes in the neighborhood.

Board Nominations and Elections

Wetherell suggested members might want to consider changing the CCRs to allow two-year terms for directors, rather than the one-year term currently specified. He explained that once elected, the directors will determine officers by vote among themselves. He briefed members on the board’s use of a nominating committee to select the candidates shown on the ballot, a process provided for in the bylaws. Mike Kerstetter, Russ Hynes, Clyde and Barbara Jex, and

Mel Lloyd (chair and board representation as stipulated) were members of the committee. There were four candidates on the ballot; write-in candidates were solicited.

Levinson nominated Vincent, who he felt understood the issues. This was seconded by Coakley. Levinson went on to question the nominating committee process and why Vincent was not chosen as a candidate when he had expressed an interest. Levinson pointed out that no one wanted to run last year, and now that they have an interest, they weren't considered. Levinson also had a problem with the use of the term "final ballot." He supported voting for directors after the annual meeting. Levinson also questioned why he personally was not approached to consider running.

Kirby Lloyd explained the effort it takes to serve on the board, based on his knowledge of the demands on his wife's time. He noted the November 3, 2005 board meeting where Vincent went on record as saying that he didn't have time to read the member mailings and questioned their importance. Lloyd went on to caution other candidates that they needed to be sure they had the time to commit since the coming year would likely be more demanding than the previous.

Wetherell explained that it is common practice to nominate candidates prior to a meeting so that members can vote during that meeting. Mel Lloyd added that, as the nominating committee became organized, both Wetherell and Levinson received an email from her regarding their interest in again serving on the board. A reply was received by Wetherell but not Levinson.

Jerry Graves nominated Levinson and Vincent seconded. All candidates provided a brief background on themselves and their priorities in serving the HOA (see December mailing for bios on Nolan, Carruth, Graves and Lloyd).

Scott Vincent: Seeks to improve the subdivision and resolve the issues surrounding 1383 Bridle Path Ct. Wants to improve relationships and would make time for what is important. Was upset with receiving a certified letter rather than a courtesy phone call to address his noncompliance. Wetherell explained that it was the board's intention to make initial contact through a visit, but the board member who volunteered did not follow through. A member made the point that Vincent was after all violating a provision in the CCR.

Doug Levinson: Levinson explained that the board sent out the Vincent letter anyway, which he signed but didn't agree with. Levinson stated that he has a notebook full of emails exchanged among board members, and that it's been a difficult year full of untruths and unfairness causing negative relationships, with two against one all year long. He disagreed with the time commitment, claiming that it didn't require a great deal of time and it was an individual's choice. Levinson has two boys and works hard on his property. He wants to see a positive change in the subdivision without the use of threats. He is an elementary school principal who deals with conflict all of the time and feels that the board would have been acting in haste to have filed a lien. He supports the election of a whole new board. Levinson added that he still has a problem with the ballot being called final and then mailed out with proxies prior to the meeting.

Coakley protested voting at the meeting and said that he supported voting afterwards as well.

Kirby Lloyd asked Levinson what he would do differently in dealing with the Stouts. He replied, "I don't know."

All candidates stepped out of the room during member discussion and the subsequent vote. The votes were counted by Clyde and Barb Jex. The new board members, elected for a one-year term, are Amy Carruth, Patty Nolan and Mel Lloyd.

Barbara Hohenegger suggested to the board that members hold more than one meeting per year. Bangert commended the outgoing board and their accomplishments. Steele stated that he would like to learn about operating the HOA irrigation system from Wetherell. Wetherell encouraged everyone to consider joining the committees formed tonight and adjourned the meeting at 9:15 p.m.

HORSESHOE RIDGE HOA

Financial Report
Revised February 2, 2006

ASSETS:

CASH:	Bank Balance (Alpine Bank 2424 F Road)	\$ 3531.24
ACCOUNTS RECEIVABLE:		
	Unpaid Annual Dues (2006 = \$200 x 35 properties)	<u>\$ 7,000.00</u>
	TOTAL:	\$ 10,531.24

2005 EXPENSES:

Endorsement stamp	9.96
Grand Valley Irrigation	1434.86
David Wetherell (reimbursement)	86.94
Charge for checks	9.24
Stamps / Certified Mail	45.84
Postal Service	22.10
State Farm Insurance	691.00
Melody Lloyd (reimbursement)	89.05
Fruita Post Office P.O. Box 151	48.00
City of Fruita - 2/7/06 room rental	20.00
State Farm Liability Ins.	100.00
Jeep Studt (repair irrigation)	417.11
Mel Lloyd (reimbursement)	<u>65.72</u>
TOTAL	3039.82

2005 ASSETS:

Annual 2005 Dues collected (\$150 x 35 properties)	5250.00
Jeep Studt (2004)	606.06
State Farm (refund)	110.00
State Farm (property damage claim - Stout)	<u>605.00</u>
TOTAL	6571.06

<u>END OF YEAR BALANCE</u>	TOTAL	3531.24
-----------------------------------	--------------	----------------

(Reported By Doug Levinson - 1368 Horseshoe Drive)

PRAIRIE DOGS

- Last spring, it was estimated that we had a population of over 2000 prairie dogs in our subdivision. It will probably be about the same this spring. (Hopefully, slightly lower because of a few homeowner efforts)
- While "they were here first", they do a lot of damage to property and can possibly carry bubonic plague. The human plague cases in Mesa County last year were contracted through domestic animals (cats and dogs) near Prairie Dog communities. A number of Prairie Dog towns in Mesa County had a "die out" because of the plague last year!! Plague is carried by fleas.
- For every one prairie dog you see above ground, there are at least four below.
- Babies are born in March/April and come above ground in April/May.
- Bachelor prairie dogs (1-3 years old) build their new home on the edge of their original family community. (New holes)
- It is desirable to begin aggressive pest control in March/April before the young surface.
- By November, the population is at it's lowest due to disease, predators, your efforts, etc.
- The community is least active from November to February and they are deep in the holes unless it is a warm sunny day. They are making babies in January/February.
- Prairie Dogs don't know property lines. So, if your neighbor is not making any effort to control the population on his property, your efforts will not be as effective.
- This population has been here for a long time and their tunnel system is extensive. Those of us on the perimeter of our subdivision have the added problem of prairie dogs coming from surrounding properties.
- They love the irrigation and utility systems to dig along because the ground has been disturbed and easy to dig.

Methods of general control by homeowners:

- "Smoke Bombs"
- Carbon Monoxide (Exhaust delivered by a device attached to your exhaust pipe and a garden hose to the hole)
- Pellet guns (A direct method, but we have an HOA rule to not shoot firearms.)
- Bow and Arrow (At least one homeowner has tried this method!)
- Professional Pest Control:

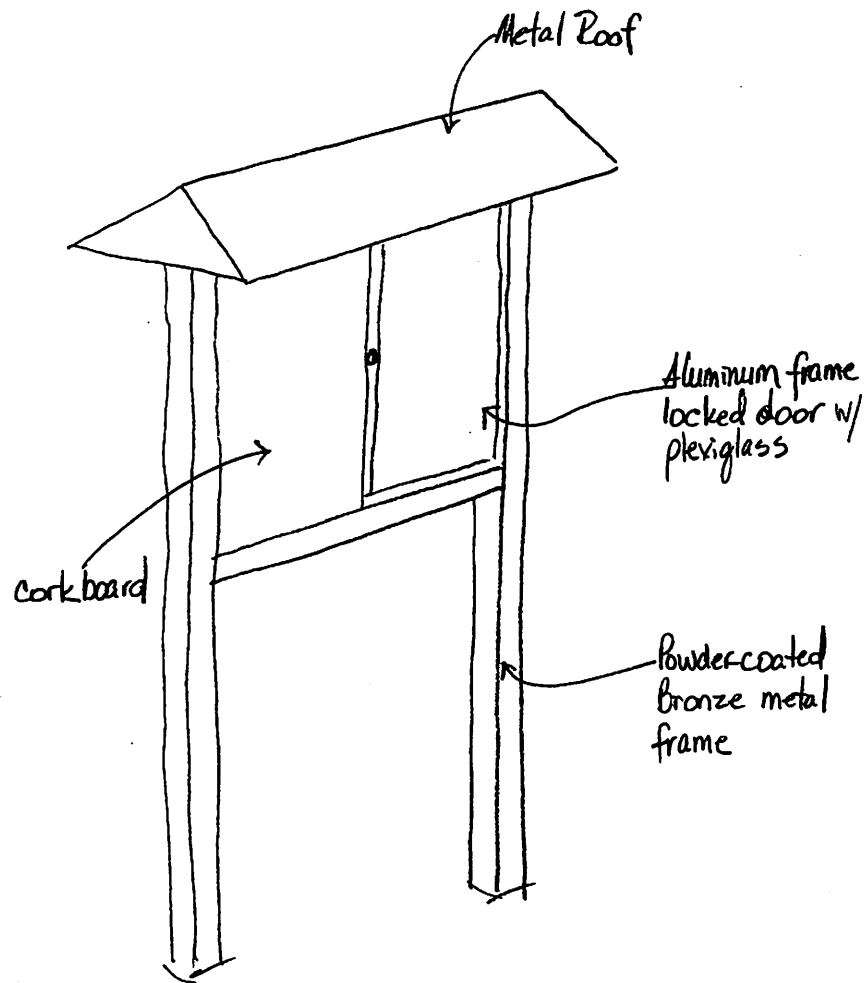
Dick Hane of A-1 Animal Control Services, Fruita, CO
261-1464 (Day)
858-0348 (Evening)

I was in contact with Mr. Hane last year. He would be willing to give us a group rate for spring treatment. If the HOA is interested, I will pursue this further for spring 2006 and be part of a sub-committee if the HOA feels such a committee should be organized. Otherwise, I have provided Mr. Hanes' contact information for any homeowner interested in his services for controlling prairie dogs on their property.

Mr. Hane uses an underground fumigant (controlled poison) which will kill the Prairie Dogs and fleas. This should be done in early April as the temperature warms up. They do one treatment and follow-up in about 4 days with another. If there are survivors, they trap them (and, frankly, I don't really want to know what they do with them after that!) Since the poison is deep in the ground and the holes are filled, it would be safe around pets and humans. This is a treatment and will not be 100% effective, especially in the first year, but it would give us a "leg up" on the problem. We may need to do this for several years.

Susanna Clark-Smith
1363 Horseshoe Drive
858-1419

Horseshoe Ridge HOA Message Center



Roughly 48" wide, 120" high
(36" in ground)

\$1264 - estimate All Metals
slight.