

Stagecoach Crossings HOA Special Members meeting - January 30, 2024

Members present: Steven and Erin Wilkins, Jen and Mike Purdy, Mark and Donita Potter, Linda And Gary Fellows, Greg Vander Vorst, Gaylen and Lois Bendewald, Chuck and Becky Howe, Robert Clark and James Fuhrman, Monni Karim, Brian Hawley, Greg Peterson, Tim And Amy Reitveld, Todd and Dee LaVelle, Joe and Lisa Kolb, Keith and Janet Bily, Beth Paulson, Rand and Vanessa Wergin, Joe Wacker, Jon Roessler, Mary Myhre, Dave Zimmer, Shawn Gregory, Curtis Fechner and Cleve Trimble by proxy.

Greg Vander Vorst called meeting to order and gave a brief bio. He has owned his property for about 1 1/2 years. He owns insurance agency and works with HOAs in several states. Mike Purdy, Joe Kolb and Greg Vander Vorst called this special meeting with the boards approval to find out what people want going forward. None are part of the current lawsuit. Greg asked everyone in the meeting to be civil with each other. Mike and Joe will continue with meeting. Everyone will have a chance to give their view. Meeting tonight is for discussion.

Disclaimer: For the ten properties who had a summary judgement to be removed from the HOA, this meeting has no affect on their case.

Mike Purdy did roll call of members on Zoom call. They have owned their lot for 2 years. He stated lawsuits do not make good neighborhood. He stated that we have not seen the end of litigation if we continue down the same path. We will have discussion tonight on 2-3 topics and get opinions on. At the very end of the meeting there would be a three-question survey which will be anonymous which will pop up on the screen when someone logged off of the meeting. This will show where the members stand on the issues being discussed.

Joe Kolb introduced himself and his wife Lisa and discussed how the Black Hills are so important to them over the years. They bought their lot 3 1/2 years ago and plan to build soon.

Mike Purdy. There three main topics. The first item involves the litigation. There has been one ruling releasing 10 properties. He stated that there are only two or three outcomes from where we stand now—the judge could reverse her decision and say those that are out could be forced back in. They feel that would probably result in more contention and more lawsuits and possibly a vote to dissolve the HOA. They don't see that at a productive path.

The first issue concerns the litigation and whether or not you are in favor of that continuing or would want us to instruct the board to drop any further litigation going forward.

Greg V : Stated if the issues are not addressed, they're going to fester. They want to know what the majority wants and to take emotion out of this. The three of them are not part of this litigation and look at this from a different perspective. They want to protect their Investments.

Discussion:

Donita: Reconsideration is not necessarily part of the process as the HOA President Keith Bily stated at our last board meeting in December 2023. It is like a mini appeal which an attorney cannot do on his own. Bylaws Section 9 states action taken by the Board of Directors at a meeting may be taken without a meeting (in this case when the president said yes in this case) but this action must be signed by all of the directors. That did not happen.

Greg. Donita is against this reconsideration going forward.

Jen. Agrees with Donita. An appeal just gives more money to the attorneys.

Keith quoted minutes from December 11, 2023 Board meeting concerning the reconsideration.

Linda clarified that at the last meeting President Keith Bily stated a reconsideration was just part of the process without approval. We have learned that it does require board approval.

Keith stated he was advised by the attorney that it was part of the process.

Greg. Do you want to move forward with that reconsideration will be one of the questions on the zoom survey which will be anonymous.

Further discussion included Jen Purdy, Keith Bily, Greg Vandervorst, and Mary Myhre.

Keith stated Susan Bowen discussed this with him.

Brian is not in favor of further litigation. Rand and Vanessa Wergin are not interested in the litigation continuing. Todd and Dee LaVelle stated they are not in favor of reconsideration motion or appeal. Steve and Erin Wilkins not in favor either. Beth Paulson not interested either.

Mike Purdy. Point 2. Stated they cannot see any scenario that makes any sense in overturning the judgment. And all this leads to a vote to dissolve the HOA. Discussion they have had is what else is possible? If ten remain out, there are 11 more who have the same ability to be out because they have the same fatal flaw as the 10 ruled out. How can you have an HOA when those who are part of it are surrounded by people who are not.

Greg Vander Vorst: So the question now is how would you feel about having a formal vote on whether the HOA should be dissolved. What is your opinion—dissolving or having HOA?

Keith Bily states State of South Dakota law requires to dissolve a nonprofit such as our HOA there cannot be any lawsuits pending against it.

Linda. Discussed only 11 or 12 properties have properly recorded covenants. These are surrounded by others who are out or could be out. Is it fair for them to be governed by covenants and no one else?

Mary. Although I do not believe I am subject to the HOA or the covenants upon the land due to the courts memorandum decision, if the HOA is taking the position my property is subject to the covenant rules, I would cast a vote for dissolution. I am reading this so that it will not affect in any way the judge's decision.

Beth Paulson. Agreed with that Mary's statement applies to all ten ruled out of HOA participating in the meeting.

Keith stated that Susan was in agreement for reconsideration. Susan not present due to illness.

Linda stated she was not aware of any verbal or written agreement by Susan.

Mike Purdy stated group needs to go back to what should happen with HOA and whether to dissolve the HOA.

Brian. I favor dissolving the HOA and possibly a very small set of covenants.

Tim Reitveld. Can't have an HOA with some in and some out. Is there still an opportunity to have some covenants to protect our property?

Todd LaVelle agreed with Tim

Mike Purdy: TOPIC 3. Are you in favor of having very few covenants to protect from worst case scenario? There would be a very few covenants without an HOA.

Donita stated that Keith at the May 2023 members meeting stated that we would wait for the judges decision. If anyone was out, it would not be fair. If 10 are out, I think that everyone should be released from the covenants. My opinion would be to vacate the covenants and dissolve the HOA. It's intention was to have all the properties in the HOA.

Howes vote was not counted at the May 2023 meeting. Donita had discussed this with her attorney and he has stated that in his opinion though they may not presently be subject to the obligations of the HOA but because their property is subject to the rules if they alienate the property, that they should have the right to cast a ballot concerning matters affecting their property rights. In other words, the fact that subsequent owners would be subject to the HOA and covenants due to the expiration of Howes agreement.

Linda. All of our current problems started because of the board wanting to change the covenants without the members knowledge. We do not want to go back to that.

Keith. Special covenants committee in fall 2022. Process never finished.

Linda. Committee selection given to Donita at May 2022 meeting. Dick changed members on this committee and they continued with the same 21 covenant changes most members disapproved of.

Beth. No to covenants of any kind.

Mark Potter Covenants not problem but the board controlling members.

Shawn Gregory: He is one of the ten properties released from covenants and the HOA. Agrees with Mary's statement about not being in HOA. No on HOA and no on any covenants.

Todd. Agrees with Shawn.

Brian. Those of us in the HOA would have no choice but to dissolve the HOA. There is no other path forward. In favor of dissolving HOA.

Gaylen. He favors some kind of compromise.

Mike Purdy. Complete the survey at the end of the meeting. Comments from board members?

Keith. Thanks to Mike Purdy, Greg Vander Vorst and Joe Kolb for undertaking this meeting.

Linda. There is no future in an HOA were so many have no binding covenants. Everyone will protect their property values.

Rob. Concerned with traffic and dust.

Greg Vander Vorst. Public road. Dust on the road is not our discussion today.

Shawn Gregory. What is going to happen with information after giving our input and completing the question survey.

Greg V. We fully intend to take action on what is discussed here and to bring this to some resolve.

Joe Kolb. Any action without an HOA if you had a few covenants, the neighbors would have to take them to court.

Brian. Roads are public and we have a road district for maintenance of roads.

Donita. I move that the board set up a 3-person committee consisting of Greg Vander Vorst, Joe Kolb and Mike Purdy to find a path forward and take these surveys and to be the liaison going forward with the board and property owners.

Todd. I agree with that and second it if it needs one.

Gaylen. Disagrees about the need for a motion.

Greg. Board can take action on the request made by Donita on forming this committee.

Mary. It seems in this discussion that most of the people want to dissolve the HOA and remove the bylaws and covenants. In order to make that happen we would have to remove the attorneys motion for reconsideration so there's no litigation.

Jen. Board should be reflecting the wills and wishes of the community and not just their own agendas.

Linda. We need to only have one vote per property on this survey.

Mike Purdy reinforced that only one vote per property if on different devices on the Zoom call.

Donita withdrew her motion.

Greg, Mike and Joe adjourned the meeting

Results of survey:

1. Are you in favor of instructing the HOA board to end all attempts of further litigation to give property owners an opportunity to move forward as neighbors rather than as litigants?

21/24 Yes (88%). 3/24 No (13%)

2. There are 10 properties currently out of the HOA. There are 11 additional properties that meet the same criteria and can be out of the HOA. With a significant number of property owners not part of the HOA/covenants, we feel moving forward with an HOA for some is unfair and will lead to further contention and litigation. Are you in favor of holding a vote to end the HOA? 24/24 Yes (100%)

3. Would you be interested in exploring the possibility of having a few basic covenants (a very few to simply protect from agreed-upon issues such as junk cars, etc.) attached to the property in Stagecoach Crossings if it can be done without the need of an HOA?

10/24 Yes (42%). 14/24 No (58%)

Respectively submitted,  
Linda Fellows, Secretary