

**EPCSA Board of Directors**  
**Meeting Minutes**

**January 13, 2009**

**Members Attending:** Michael Cross, Errol Levine, Rex Wilmore, Virginia Brewer and Pennington Way

**Guests Present:** Frank Jackunas, Suzie O'Neill and Scott Rasmussen

The meeting was called to order at 8:00 am by Michael Cross.

1. **Approval of Minutes:** Upon motion by Rex Wilmore, seconded by Penn Way, the minutes of the Board Meeting of 12/9/08 were approved by all as submitted.
2. **Treasurer's Report:** No Treasurer's report was received. Michael Cross reported that he had been in contact with Jill McIntosh of La Viveza. She had not paid her EP dues for 2008 and a lien had been filed on her property. Ms. McIntosh had agreed to pay the dues for 2008, the late fee and the attorney's fees within the next several days following which the lien will be cured. She will pay the 2009 EP dues in February.
3. **Clubhouse and Grounds Report:** Frank Jackunas reported that to address concerns regarding occupancy for clubhouse functions, Angelo Ortega, a SF Fire Department Inspector, was called in on December 12<sup>th</sup> to review the facility. After a complete inspection, it was determined that the safe limit was 100 persons. A sign has been posted in the main hall to that effect. While at the clubhouse, Mr. Ortega also completed our annual safety inspection and gave us a clean bill of health. Frank reported also that he had been in contact with Kris at KC Landscapes and told her that he would be in contact with her early in the spring to finalize the EP grounds maintenance contract with her for 2009.
4. **ARB Report:** Pat Jackunas reported by e-mail that no further activity of the ARB had occurred since the last Board meeting. Michael Cross reported that he had been in contact with a City inspector regarding an 8-9-foot high fence that had been constructed between Cumbre Vista and an adjoining neighborhood by the developer, Sonny Otero. The inspector, Bobby Padilla, had been in contact with the developer who has promised to decrease the height of the fence within the next several weeks.
5. **Paseo Cresta Update:** Michael Cross reported that he had received a total bill from Paula Cook for about \$11,400 for legal work done on the Paseo Cresta problem. He had negotiated with her for a reduction in the bill and she had agreed to accept a total payment of \$8,000. Cresta has now established that the easement in question still remains the property of Jo Anne McGuire. Ms. McGuire wishes to give the easement to any entity that will accept it. After discussion, the Board agreed that it does not wish to acquire the strip of land owned by Ms. McGuire. The Board agreed that private arrangements regarding this matter should be left to Cresta. The Board has no objection to Cresta obtaining Title to the easement or to Ms. McGuire continuing to own it, as she has for the past 25 years.

6. **Snow Removal Problems:** Michael Cross outlined the existing arrangement with Advantage Asphalt. They will come out on request to plow Avenida Primera when there is a snow accumulation of 2" or more at a cost of \$850. The side streets will be plowed on request when there is a snow accumulation of 4" or more at a cost of \$1,750. Suzie O'Neill who resides along Avenida Primera complained about piles of snow being left at the front of her home after plowing and showed photographs to prove this. Michael Cross promised to ensure that he would instruct Advantage Asphalt to try to place the snow elsewhere after future plowings. Scott Rasmussen, from Los Altos, complained about snow removal being inadequate in the neighborhood and wondered whether Los Altos and other subdivisions should enter into private contracts for snow removal. Michael Cross reported that currently Cresta has opted out of the EP snow removal program and that plowing in La Viveza and Aspen compound is restricted to the front apron unless the neighborhoods request otherwise. The Board discussed whether it should adopt a program whereby we get only Avenida Primera plowed and leave individual neighborhoods to arrange for their own snow clearance. Some Board members were opposed to this proposed change. They felt that the current system is working well and that homeowners in subdivisions might object to a reduction in services. Moreover, it is often difficult to get companies to come out in a timely fashion after snow falls to perform small jobs as they give priority to larger contracts. Advantage Asphalt gives EP top priority and comes out usually within an hour of being called. Most Board members felt that it would not be desirable to change the existing arrangement. However, there would be nothing to stop individual neighborhoods to hire companies or individuals to perform supplemental snow and ice management services should they require minor snow falls (less than 4") to be managed. The Board agreed that the current contract for 2008/2009 with Advantage Asphalt should remain in place. The matter will be re-discussed when the contract comes up for renewal next fall.
7. **Board Vacancy:** Michael Cross indicated that Cresta had nominated Mary Walta to fill the vacant EP Board position as their representative. The Board agreed that this would be appropriate but only after the Cresta problem had been finally resolved.
8. **Pending Matters:**
  - a. Concrete repairs on Avenida Primera (Board meeting 10/14/08)
  - b. Clubhouse and Clubhouse grounds appraisal (Board meeting 10/14/08)
  - c. Transfer of a CD to another bank on maturation (Board meeting 10/14/08)
  - d. KC Landscapes contract for 2009 (Board meeting 12/9/08)
9. **Adjournment:** The meeting adjourned at 8:45 am.

**EPCSA Board of Directors**  
**Meeting Minutes**

**February 10, 2009**

**Members Attending:** Michael Cross, Errol Levine, Rex Wilmore, Virginia Brewer, Pennington Way, Carol Seghers and Beverlee Anderson.

**Guests Present:** Frank Jackunas

The meeting was called to order at 8:04 am by Michael Cross.

1. **Approval of Minutes:** Upon motion by Ginny Brewer, seconded by Penn Way, the minutes of the Board Meeting of 1/13/09 were approved by all as submitted.
2. **Treasurer's Report:** Beverlee Anderson presented the report. About \$25,000 in annual dues payments for 2009 are still outstanding. During 2008, we spent about \$11,379 more than we took in in revenues. Most of the expenses involved maintenance of the Clubhouse. These included maintenance of the Clubhouse roof, bathroom plumbing repairs, holiday lights and bringing the electric supply up to code. Legal expenses for the Cresta problem had been about \$8,500. Grounds maintenance had cost \$8,718 and Insurance \$7,620. Pool maintenance cost \$3,257 and snow removal \$3,610. Beverlee indicated that a new pool cover might be needed in 2009 at an approximate cost of \$6,000. Some Board members felt that EPCSA might have been overcharged in the past by various contractors and recommended that we need to shop around more in the future for lower rates should any repairs or maintenance work be required. In answer to a question, Beverlee indicated that a reappraisal of the Clubhouse building, grounds and facilities had not yet been done. The plans had been sent to Bob Lockwood who had not yet got around to doing the appraisal. Michael Cross will contact Bob Lockwood about this. Beverlee indicated that the current annual dues for EPCSA had remained unchanged for many years at \$360 and that it was probably time now for the Board to consider raising the annual dues to \$400 from 2010 onwards. Board members felt that before this could be decided we would need a breakdown of past annual expenses into two categories. The first category should be annual expenses that are more or less fixed and recurring. The second category should be unusual and occasional expenses. Beverlee promised that she would do this for the next Board meeting on March 10. She will consult with Rex Wilmore and send a document by e-mail to all the Board members so that they can have their questions ready at the time of the meeting. If the annual dues are raised to \$400, then an additional annual \$7,200 in revenue can be raised from 180 homes in EP. The question of charging for the use of the Clubhouse facility arose. Beverlee indicated that the Clubhouse and its grounds are currently not taxed since we do not charge for their use. If we were to do so, we would be at risk of losing our tax-exempt status. Michael Cross reported that he had been in contact with Jill McIntosh of La Viveza. She had recently paid her EP dues for 2008 with late fees and legal costs and the lien filed on her property has been removed. Ms. McIntosh had agreed to pay the dues for 2009 by the due date of March 15.
3. **Clubhouse and Grounds Report:** Frank Jackunas had no special activity to report. The wall rug in the clubhouse lobby had become infested with moths and he and Michael Cross were treating the infestation.

4. **ARB Report:** Pat Jackunas reported by e-mail that no further activity of the ARB had occurred since the last Board meeting.
5. **Board Vacancy:** Michael Cross indicated that Cresta had nominated Mary Walta to fill the vacant EP Board position as their representative. Upon motion by Rex Wilmore, seconded by Ginny Brewer, Mary Walta was unanimously elected to the Board to fill the vacancy for the Cresta representative.
6. **Old Business:** Michael Cross asked to be informed should Board members become aware of a burglary or other criminal activity in their neighborhoods. It was agreed that since we have non-solicitation signs at the two entries of EP that soliciting cannot be legally undertaken in the neighborhood and that the police may be called if such soliciting occurs. Political solicitors are, however, exempted by the relevant City Ordinance. Beverlee Anderson expressed concern about run-off of water and dirt from Paseo Cresta onto Avenida Primera. Michael Cross indicated that he would get the City to clean up the existing debris in this location. After that if there is further run-off of water and debris from Paseo Cresta in the spring and summer, he will request that Cresta undertakes the responsibility for any further cleanups.
7. **Pending Matters:**
  - a. Concrete repairs on Avenida Primera (Board meeting 10/14/08)
  - b. Clubhouse and Clubhouse grounds appraisal (Board meeting 10/14/08)
  - c. Transfer of a CD to another bank on maturation (Board meeting 10/14/08)
  - d. KC Landscapes contract for 2009 (Board meeting 12/9/08)
9. **Adjournment:** The meeting adjourned at 8:40 am.

**EPCSA Board of Directors**  
**Meeting Minutes**

**March 10, 2009**

**Members Attending:** Michael Cross, Errol Levine, Rex Wilmore, Virginia Brewer, Pennington Way, Carol Seghers, Beverlee Anderson and Mary Walta.

**Guest Present:** Frank Jackunas

The meeting was called to order at 8:04 am by Michael Cross.

1. **Approval of Minutes:** Upon motion by Beverlee Anderson, seconded by Ginny Brewer, the minutes of the Board Meeting of 2/10/09 were approved by all as submitted.
2. **New Board Member:** Michael Cross welcomed Mary Walta as the ninth Board member representing the Cresta subdivision.
3. **Treasurer's Report:** Beverlee Anderson presented a list of homeowners who had not yet paid their dues for 2009. Twenty four homeowners are involved and the total amount outstanding is \$8,316. Michael Cross and other Board members will contact the homeowners on the list to remind them about the need to make their payments not later than March 15. There was some discussion about when payments for 2010 and subsequent years should be required. Most Board members felt that there was little sense in mailing out bills on January 1 and requiring payment by February 15 with a late charge being imposed only after March 15 in the event of non-payment. This gives homeowners too much opportunity to delay or to forget about submitting their checks. Most Board members felt that it would be better to require payment by February 15 and to begin to apply the late charge after that date. Michael Cross will review the EP governing documents and the Board will take a final decision about the matter at its next meeting.

Bob Lockwood had submitted a Cost Estimate for replacing the Clubhouse and all the improvements at the Board's request. He believes that the total cost is \$1,302,000. He recommended that the insurance coverage for the Clubhouse be \$830,000. Some Board members felt that the figures submitted were somewhat high. The figures will, however, be taken into account for renewal of the EP Insurance Policy. The premium for this will be due in August 2009. Pennington Way was requested to review the current policy in the light of Bob Lockwood's recommendations and to obtain bids for the insurance for 2009 from 2-3 companies. It was emphasized that this needs to be done as soon as possible so that the Board can make a final decision before the August renewal date.
4. **Grounds and Clubhouse Report:** Frank Jackunas reported that he had been in contact with Kris of KC Landscapes. They will start doing some of the spring cleanup next week and later in the spring will address the annual weed problem. Kris has a list of items that need to be addressed.
5. **ARB Report:** Pat Jackunas reported by e-mail that no further activity of the ARB had occurred since the last Board meeting. Michael Cross indicated that at some point he and Pat Jackunas would walk through the various neighborhoods to identify violations of the Architectural

guidelines. After that any homeowners with violations would be asked to correct the problems identified.

6. **Annual Budget and Expenses:** Beverlee Anderson had e-mailed to each Board member a document showing revenues and expenditures for 2008 with the comparable revenues and expenditures for 2005, 2006 and 2007. A proposed budget for 2009 had also been distributed. During 2008, we had spent about \$11,379 more than we took in in revenues. The proposed budget for 2009 showed a strong likelihood that this trend would continue. Michael Cross asked each Board member to give his or her opinion regarding what should be done about this matter during 2009 and subsequent years. After a detailed discussion, most Board members agreed on the following:

- A concerted effort should be made during 2009 and subsequent years to reduce expenditures. It was felt that until this was done, it would be inappropriate to consider raising the annual dues. It was noted that during 2008, the total cost for maintaining the Clubhouse and its facilities had risen to \$36,164.86 as compared with \$26,307.83 in 2007 (items 7000 and 6035). This represents an annual increase of 37.5%. Most Board members therefore felt that the Clubhouse was the most likely area in which savings could be achieved. Grounds maintenance (6040) and snow removal (7100) had cost \$12,328.60 during 2008 as compared with \$26,222.62 in 2007, a reduction of 53%. This savings had been achieved as a result of a deliberate policy to reduce costs in this area on the part of the Board. Most Board members felt that a similar policy should apply in the future regarding the Clubhouse and its facilities.
- Most Board members felt that the Board had not had sufficient opportunities in the last 2-3 years to exercise its oversight functions regarding expenditures on the Clubhouse. Frank Jackunas was therefore requested to submit any future recommendations for work considered necessary at the Clubhouse to the Board for approval at its monthly meetings before any expenditures were incurred. The Board indicated that it understood that some types of recurrent routine maintenance could proceed without its approval if the amounts involved were small and similar to those involved in previous years. However, any large expenses (e.g. more than \$500) or any non-urgent expenses should preferably be referred to the Board for its approval prior to any work being done.
- The Board examined specific items that it felt should be investigated more carefully before any decisions were taken for 2009. These include a proposed new water heater for the Clubhouse, a new pool cover and new cushions for the poolside furniture. The Board felt that unless it was absolutely essential (due to any of the items being non-functional) that expenses for these should not be incurred during 2009.
- Some Board members felt that the premium cost for the EP insurance policy is somewhat high. Penn Way will therefore obtain competitive bids for 2009 using the information provided in Bob Lockwood's cost estimate before the renewal date in August 2009.
- Frank Jackunas was asked to provide information at the next meeting regarding the annual costs for maintaining the Clubhouse roof (which is still under warranty) and regarding the number of homeowners who use the wireless internet access that was approved for a one-year trial period by the Board at its June 2008 meeting.
- Some Board members felt that some of the contractors doing work at the Clubhouse were charging excessive amounts. This applies particularly to electrical and plumbing work. It is known that these contractors are now experiencing a marked downturn in their businesses

as a result of the current recession. The Board therefore feels that it should be possible to get lower bids for maintenance work than have been obtained in the past. Frank Jackunas was therefore requested to obtain at least three estimates for any new proposed maintenance work when the matter comes up for approval by the Board at its monthly meetings.

- Board members requested that the Treasurer provide monthly reports showing the amount budgeted for any item as compared with the amount spent to date. This would enable the Board to assess whether it was staying within budget and whether the expense recommended in any budget category should be incurred or deferred until the following year.
- Most Board members felt that if it was essential to spend more on Clubhouse maintenance and other items during 2009 than was earned in revenues that the money should be taken from the Reserve Fund rather than making any attempt to raise the annual dues.
- Michael Cross was authorized to review the annual costs involved for the accountant and book keeper. The current accountant charges \$1,000 for preparing the EP tax returns. She is always late in getting the returns prepared and always needs an extension.

7. **Pending Matters:**

- a. Concrete repairs on Avenida Primera (Board meeting 10/14/08)
- b. Transfer of a CD to another bank on maturation (Board meeting 10/14/08)
- c. Review of KC Landscapes contract for 2009 (Board meeting 12/9/08)

9. **Adjournment:** The meeting adjourned at 9:10 am.

**EPCSA Board of Directors**  
**Meeting Minutes**

**April 14, 2009**

**Members Attending:** Michael Cross, Errol Levine, Rex Wilmore, Pennington Way, Carol Seghers, Beverlee Anderson, John LeMaster and Mary Walta.

**Guest Present:** Frank Jackunas

The meeting was called to order at 8:04 am by Michael Cross.

1. **Approval of Minutes:** Upon motion by Beverlee Anderson, seconded by Rex Wilmore, the minutes of the Board Meeting of 3/10/09 were approved by all as submitted.
2. **Treasurer's Report:** Beverlee Anderson reported that 8 homeowners had not yet paid their dues for 2009. Michael Cross will contact the homeowners on the list to remind them about the need to make their payments *plus the late charge of \$36*. There was some discussion about when dues payments for 2010 and subsequent years should be required. The following motion was then made by Beverlee Anderson and seconded by Errol Levine: *For 2010 and onwards, the annual dues statement will be mailed out at the beginning of January and no later than January 15. The dues will be payable not later than February 15. Homeowners who do not make their payments by February 15 will receive a second statement by mail and will have to pay a late charge of \$36. If the total amount of \$396 is not paid by March 10, the Treasurer will send a certified letter to the homeowner indicating that if full payment is not received by March 15, a lien will be filed against the home. The letter will further indicate that in order to cure the lien, the homeowner will be responsible for an amount that will include the dues payment (\$360), the late charge (\$36), Association administrative costs, the cost for filing of the lien and any attorney's costs.* The motion was approved with two Board members dissenting. The Board asked Beverlee Anderson to post a notice on the EP web site indicating the change in policy. The Board agreed that Article 5, paragraph 10 of the Estancia Primera CC & Rs permitted such a change to be made by the Board without additional consultation with anyone. The Covenants do not indicate any specific dates by which the annual dues payments need to be made except that they become due at the beginning of each year. The matter will also be raised at the annual General Meeting for Estancia Primera.

Beverlee Anderson also presented a Treasurer's Report (attached) showing expenses that had been incurred to date for 2009 as well as revenues received to date. She indicated that the budget is approved at the annual financial meeting held each August and that it is based on the previous year's income and expenses. She modifies the budget each year again in January, but usually the modifications are only of a minor nature and are based on anything new that comes to the Board's attention. EPCSA currently has three certificates of deposit. These are all at the same bank. Currently, these are FDIC insured up to \$250,000 and we are within this limit. If the amount of FDIC insurance is reduced to \$100,000 at the end of December 2009, Beverlee will transfer one of the CDs to a different bank. Beverlee reported also that she intended (after consultation with Michael Cross) to retain our current CPA. Our tax returns will be filed in May, the accountant having filed for an extension.



3. **Grounds and Clubhouse Report:** Frank Jackunas submitted a written report (attached). The Board noted the various maintenance items that had already been completed for the Clubhouse. The Clubhouse roof warranty expired on 5/16/09. Frank indicated that he had got some minor roof repairs performed for about \$20. The Board agreed that power washing of the pool deck areas was not required. It was agreed, however, that it was necessary to repair cracks in the driveway asphalt and to remove tree roots that were causing these. Frank will obtain additional estimates for this work which will probably be needed to be performed annually. The Board agreed that the Clubhouse sign should be left as is since a repair would probably make the crack in the sign even more unsightly. The Board agreed that all exposed wooden surfaces on the exterior of the Clubhouse be treated with oil at a labor cost of about \$20/hour. There was some discussion about the need to have the Clubhouse alarm system inspected annually. Frank thought that it was done at no charge. If this is the case, the Board agreed to continue the annual inspection by PSI. If, however, there is a charge for this work, it should be done every two years instead of annually. The Fire inspection of the Clubhouse is, however, needed annually. Frank will report to the next Board meeting about the annual cost for Wireless internet access at the Clubhouse and the number of individual homeowners that use it.
4. **ARB Report:** Pat Jackunas reported by e-mail that the ARB had approved a landscaping project in Kachina Hills. She also commended John LeMaster for the improvements made to the walking trail in Los Altos.
5. **New Business:** Michael Cross reported that there had been several problems with barking dogs in different neighborhoods and that he would take up these problems with the offending homeowners. The Board discussed who was responsible if a tenant of a leased home caused problems in a neighborhood subdivision. It was agreed unanimously that the actual homeowner is responsible for the behavior of his/her tenant and that the homeowner is responsible for insuring that the tenant corrects any behavior that contravenes the CC and Rs for the subdivision and for EP.
6. **Annual Meeting:** The annual Financial and Budget meeting will be held on Monday, August 17 and the Annual General meeting will be held on Tuesday, August 18.
7. **Pending Matters:**
  - a. Concrete repairs on Avenida Primera (Board meeting 10/14/08)
  - b. Transfer of a CD to another bank on maturation (Board meeting, 10/14/08)
  - c. Review of KC Landscapes contract for 2009 (Board meeting, 12/9/08)
  - d. Clubhouse Insurance Review – Pennington Way (Board meeting, 3/10/09)
9. **Adjournment:** The meeting adjourned at 8:57 am.

**EPCSA Board of Directors**  
**Meeting Minutes**

**May 12, 2009**

**Members Attending:** Virginia Brewer, Errol Levine, Rex Wilmore, Beverlee Anderson and John LeMaster.

**Guest Present:** Frank Jackunas

The meeting was called to order at 8:02 am by Ginny Brewer. Michael Cross is currently out of town.

1. **Approval of Minutes:** Upon motion by John LeMaster, seconded by Rex Wilmore, the minutes of the Board Meeting of 4/14/09 were approved by all as submitted.
2. **Treasurer's Report:** Beverlee Anderson reported that one homeowner had not yet paid his dues for 2009. He is Michael Muller of 789 Avenida Primera South. The invoices mailed to his EP address had both been returned by the Post Office. No one in Cresta has an out of town address for him. After discussion, the Board agreed that a lien should be filed on Mr. Muller's home in EP. It was generally agreed that it is his responsibility either to have his mail forwarded or to provide EPCSA with an out of town mailing address. Beverlee Anderson will therefore ask Michael Cross to contact Carla Skeen about the filing of the lien. Beverlee reported also that four homeowners had paid their dues late but had deliberately not paid the \$36 late fee that had clearly been indicated on invoices sent to them. After discussion, the Board agreed unanimously that these four homeowners should be sent invoices for \$36. In each case, the invoice should be accompanied by a letter indicating that if payment of \$36 is not received within two weeks of the invoice date EPCSA will file a lien against each home involved. The letter will also indicate that if a lien is filed, curing of the lien will involve payment of \$36, administrative charges and any attorney's costs. Beverlee also indicated that the 2009 tax returns for EP will be filed in May. No formal Treasurer's report was available.
3. **Grounds and Clubhouse Report:** Frank Jackunas submitted a written report (attached). Frank reported that Mossman Pools had performed their annual inspection. The waterproof motor that opens and closes the pool cover had seized and the replacement cost would be about \$1,000 in parts and labor. Mossman Pools had also recommended a new pool cover at an approximate cost of \$2,562. Frank estimates that the total cost will be about \$4,000. Frank presented arguments in favor of this expense and submitted an e-mail from Pat Haueter supporting the expenditure (attached). Frank indicated that the cover is sagging badly. Its exact age is unknown but it was apparently in use when Rex Wilmore was President of EPCSA. In answer to a question from John LeMaster, Beverlee Anderson indicated that sufficient funds were available to cover this expenditure without exceeding the 2009 budget for the Clubhouse. It is not known what Michael Cross's view is about this matter. After discussion, Rex Wilmore moved and Beverlee Anderson seconded that a new pool cover and motor be purchased and the Board approved the motion. Pat Haueter had also requested that the pool be opened for general use prior to Memorial Day because of the warm weather. The pool heater has not yet been turned on and the inspection by Santa Fe Environmental has been scheduled for May 13<sup>th</sup>. The Board supported opening the pool prior to Memorial Day, but asked that the pool not be opened until the heater has been turned on and until the results of the inspection are available.

There was some discussion about weed removal. Clover or alfalfa weeds are appearing in EP. KC Landscaping had performed some preliminary weed control on May 11. Rex Wilmore recommended that Ortho Weed-B-Gone spray be used instead of Roundup because the latter is more likely to kill desirable vegetation. Errol Levine commented that weeds were developing in the

gravel in the entry island on Avenida Primera South. Frank will get KC Landscaping to deal with these. The Board thanked John LeMaster and the Los Altos Homeowners Association for work done to improve the trail through their neighborhood.

4. **ARB Report:** Pat Jackunas reported by e-mail that there had been no ARB activity since her last report.
5. **Insurance Issues:** Beverlee Anderson reported that she is waiting to hear from Pennington Way regarding the insurance for EP for 2009 (Board meeting March 10, 2009). The premium for this will be due in August 2009. Penn had agreed to review the current policy in the light of Bob Lockwood's recent appraisal of the Clubhouse and its facilities and to obtain competitive bids for the insurance policy from 2-3 companies. Frank Jackunas requested guidance from the Board regarding the hiring of individuals and companies to perform maintenance work on the Clubhouse and common areas of EP. At the Board meeting of October 14, 2008, the Board had requested that only Companies or individuals with current certificates of General Liability Insurance and Workers Compensation Insurance be hired to perform work in EP. At the Board meeting of April 14, 2009, however, some Board members had expressed the view that it was not necessary to adhere totally to this policy. It had been felt that many small one-time jobs could be accomplished more quickly and at a lower cost if individual contractors without full insurance could be hired. The Board had asked Pennington Way to investigate whether we are adequately covered by our existing insurance policy in the event of a workman not formally covered by Workers Compensation being injured while working on the Clubhouse or EP common areas. The Board decided that the policy established at the October 14 meeting should remain in effect until we receive a report from Pennington Way. The matter will be finalized at the next Board meeting.
6. **Annual Meeting:** The annual Financial and Budget meeting will be held on Monday, August 17 and the Annual General meeting will be held on Tuesday, August 18. Beverlee Anderson indicated that she will present a provisional budget for 2009 at the Financial Meeting, but that the budget could only be finalized in January 2010 once the total expenditure for 2009 was known. The dates of the two meetings will be posted on the EP web site in July. Beverlee will also post the minutes of the Annual meeting of August 19, 2008 on the EP web site since these have to be approved at the next Annual General Meeting. She will also post nomination and proxy forms for the 2009 meetings. The Board noted that the following Board members' terms expire in August 2009: Carol Seghers, Michael Cross, John LeMaster, Rex Wilmore, Mary Walta and Beverlee Anderson. Beverlee will check whether these Board members are agreeable to serving another term. A letter regarding the above meetings will be mailed to all homeowners at least one month prior to the meeting dates. The letter will direct their attention to the forms and minutes posted on the EP web site.
7. **Old Business:** Michael Cross will report on barking dog problems at the next meeting.
8. **Pending Matters:**
  - a. Concrete repairs on Avenida Primera (Board meeting 10/14/08)
  - b. Transfer of a CD to another bank on maturation (Board meeting, 10/14/08)
  - c. Need for Certificates of Liability and Worker's Compensation Insurance for workmen hired by EPCSA - Pennington Way (Board meeting, 4/14/2009)
  - d. Clubhouse Insurance Review – Pennington Way (Board meeting, 3/10/09)
9. **Adjournment:** The meeting adjourned at 8:29 am.

**EPCSA Board of Directors**  
**Meeting Minutes**

**June 9, 2009**

**Members Attending:** Michael Cross, Virginia Brewer, Errol Levine, Rex Wilmore, Carol Seghers, Mary Walta and John LeMaster.

**Guests Present:** Frank Jackunas, Mary Lawton and Paulette Cross

The meeting was called to order at 8:02 am by Michael Cross

1. **Approval of Minutes:** Upon motion by Ginny Brewer, seconded by Rex Wilmore, the minutes of the Board Meeting of 5/12/09 were approved by all as submitted.
2. **Treasurer's Report:** No formal Treasurer's report was available. The Board noted that Michael Muller of 789 Avenida Primera South had not yet paid his dues for 2009. The invoices mailed to his EP address had both been returned by the Post Office. Attempts to obtain an out of town address for him had thus far proved unsuccessful. The Board agreed, however, that a lien should not be filed against Mr. Muller's home until a further attempt had been made to obtain his other address and telephone number. If this is successful, he should be sent an invoice for \$360 plus a \$36 late charge. If full payment has not been made by the time of the next Board meeting, the Board will reconsider filing a lien against his home. Beverlee Anderson will be in contact by mail with the four homeowners who had paid their dues late but had deliberately not paid the \$36 late fee that had clearly been indicated on invoices sent to them. In each case, the new invoice should be accompanied by a letter indicating that if payment of \$36 is not received within two weeks of the invoice date EPCSA will file a lien against each home involved. The letter will also indicate that if a lien is filed, curing of the lien will involve payment of \$36, administrative charges and any attorney's costs.
3. **Grounds and Clubhouse Report:** Frank Jackunas submitted a written report (attached). The Clubhouse pool cover will be replaced by Mossman Pools on June 19. Michael Cross reported that he had consulted Carla Skeen about creating a Tow-Away zone in the Clubhouse parking lot. She had advised that a sign be installed at each entry to the lot stating that no overnight parking is allowed and that vehicles parking overnight might be towed away. The sign should also include the name of the Towing Company. After discussion, Mary Walta moved that this be done and the motion was seconded by Errol Levine. The Board voted in favor of the motion with one member dissenting. Frank Jackunas was requested to make arrangements for the signs and to have the current sign removed. Frank Jackunas asked whether it would be helpful if we could levy a small charge for groups using the Clubhouse since costs are incurred with regard to electricity, garbage disposal, cleanup, etc. After a brief discussion, it was decided that this was not appropriate at the present time.
4. **ARB Report:** Pat Jackunas reported by e-mail that the ARB had approved installation of a coyote fence on the Avenida Primera side of a residence at 520 Los Nidos Drive. The ARB had also received complaints about two white roofs in Altamira one at 774 Calle Altamira (Ann Benoit) and one at 748 Calle Altamira (Barry Gerst). Pat had contacted the homeowners about the violations. She had received a call back from Barry Gerst who has promised to fix the problem. If she does not hear soon from Ann Benoit, Pat will ask Kurt Sommer to follow up before a formal letter is sent. There has also been a problem with a rooftop at 789 Avenida Primera South (Mark Muller

residence) in that white ducts for a swamp cooler or air-conditioning unit are in place. Pat will send Mr. Muller a formal letter when his out of town address becomes available.

5. **Insurance Issues:** Michael Cross indicated that he had filed an application for insurance in consultation with Penn Way. He and Penn will arrange for the insurance agent to be present at the July Board meeting to answer any questions about different types of coverage before the Board takes a decision in the matter. Our policy comes up for renewal in August 2009. A new policy and coverage might be necessary in the light of Bob Lockwood's recent appraisal of the Clubhouse. Also, the issue of Workers Compensation Insurance for workmen hired at the Clubhouse and in the grounds will need to be addressed.
6. **Annual Meeting:** The annual Financial and Budget meeting will be held on Monday, August 17 and the Annual General meeting will be held on Tuesday, August 18. The following items will be needed for the two meetings:
  - Treasurer's Report and Provisional Budget for 2010
  - Minutes of the meeting of August 19, 2009 need to be posted on the EP web site
  - Proxy and nomination forms need to be posted on the EP web site
  - A letter regarding the above meetings will need to be mailed to all homeowners one month prior to the meeting dates. The letter will direct their attention to the forms and minutes posted on the EP web site.
  - The letter will indicate that the following Board members' terms expire in August 2009: Carol Seghers, Michael Cross, John LeMaster, Rex Wilmore, Mary Walta and Beverlee Anderson.
7. **New Business:**

**Garbage:** Michael Cross reported that there had been problems relating to garbage containers in EP. The problems are of three main types:

- Homeowners often place City-provided containers at the curbside as early as Sunday for the Tuesday collection
- City-owned containers are often being left permanently in exposed locations on lots
- Some homeowners (or their management companies, renters, landscapers, etc) often place garbage bags at the curbside without making arrangements for the City to pick these up. The automated garbage pickup truck for EP will not remove uncontained garbage bags left at the curbside and these might therefore remain there for a prolonged period.

In reviewing the matter the Board noted the following paragraphs in Section 6 of Bill Number 2009-2 issued by the City of Santa Fe in 2009 relating to Solid Waste Disposal (the 2009 Bill amends the 1996 Ordinance):

*D. Customer shall keep all refuse and recycling within private property away from public view until the time when containers are placed at the curbside for City collection.*

*E. Customer shall place refuse bags and private containers by the curbside only between the hours of 6:00 a.m. and 8:00 a.m. of the day designated for collection.*

*F. Customers shall place **City-provided** refuse containers and recycling containers by the curbside between the hours of 6:00 p.m. the night before the designated day of collection and 8:00 a.m. on the day designated for collection. Refuse containers and recycling containers shall be removed from the curbside by 8:00 a.m. the day following the designated collection day.*

The Board noted also that there is scant mention in the EP CC&Rs of garbage disposal and collection. The only mention is in Article 6, Paragraph 4 which states: *“Rubbish, trash or waste shall not be kept except in sanitary containers, which containers shall be kept screened and concealed from public view at all times (other than when being placed for pickup).”* After discussion, the Board agreed that homeowners should be asked to meet the requirements of the City Ordinance. Since the details are not contained in the EP CC&Rs, however, the Board lacks the ability to enforce these requirements. If homeowners when asked to cooperate fail to comply with the City Ordinance, complaints should be made to the City Solid Waste Department by the neighborhood Associations or the EP ARB. The Board felt also that not all homeowners would necessarily know about the requirements of the City Ordinance. Accordingly, the matter will be placed on the agenda for the Annual August meeting. Also, a brief note about this matter from Michael Cross will be included in the mailings to all homeowners announcing the date of the Annual Meeting.

### **Trees in Estancia Primera**

Mary Lawton and Paulette Cross addressed this issue. Mary Lawton indicated that many trees within EP had attained a large size and were interfering with views. In particular, there is a cottonwood tree in Kachina Hills adjacent to her Cumbre Vista home that blocks her view and causes a mess on her property when it sheds its leaves. The tree is about 50 feet tall. Mary reported that she had contacted the homeowners but that they were not amenable to correcting the problem. Paulette Cross expressed concern about tall Cottonwood trees along Avenida Primera. Both requested that the Board address this matter. Ginny Brewer also reported that she had had difficulties in dealing with a tree problem in a neighborhood subdivision adjacent to hers. The Board noted that Article 6, Paragraph 18 of the EP CC&Rs states as follows:

**Height of Shrubs, Hedges, Trees and Landscaping.** *No shrub, hedge, tree or other landscaping which interferes with the view, solar access and/or privacy of any Lot or Living Unit (except as reasonably determined by the ARB) shall be planted, permitted or maintained on any Lot or Living Unit or upon any Common Area. If the Owner of a Lot or Living Unit or any Neighborhood Association (as to a Common Area maintained by it) allows a shrub, hedge, tree or other landscaping on their respective property to violate the provisions of this Section, then the ARB shall have the right (but not the obligation) upon ten (10) days' prior notice to the offending Owner or Neighborhood Association, to: (a) enter upon the offending Lot or Living Unit or Common Area, (b) cut back or otherwise trim the offending shrub, hedge, tree or landscaping so that the same complies with said height limitation; and (c) assess the Owner(s) (as to the offending Lot or Living Unit) or the Neighborhood Association (as to the offending Common Area) for the cost of such activities.*

The Board noted that it had previously obtained a legal opinion from Carla Skeen regarding this matter. Carla had attended a Board meeting on September 11, 2007 and the following is an extract from the minutes of that meeting: *“Carla reported that Article 6, Paragraph 18 of the amended Covenants and Restrictions for Estancia Primera indicated that the Architectural Review Board could ask homeowners to cut back their trees if complaints are received about their impact on neighbors' views. She noted also, however that two varieties of Cottonwood trees are on the current list of acceptable trees for the neighborhood as stated in Section D (Landscape Design*

*Considerations) of the EP Architectural Guidelines. Section D also indicates that “Street trees should not hinder views from within the village cluster or from adjacent tracts” and that “Great care must be taken that any plantings protect or enhance views from adjacent sites”: She therefore made the following recommendations based on the Covenants and the Architectural Guidelines:*

- *The Estancia Primera ARB has the responsibility for dealing with any complaints about trees and their impact on a homeowner’s views.*
- *In dealing with such a complaint, the ARB should visit the site and determine whether the complaint is reasonable.*
- *If a homeowner purchases a home in a neighborhood with established trees, he or she is considered to have purchased the home “as is.” In such cases, the ARB cannot be expected to create a view corridor for the new homeowner.*
- *If the ARB believes that a complaint is justified, they can request that a homeowner trim back a tree or trees to an acceptable height.*
- *If the homeowner does not comply with such a request the ARB has the right (but not the obligation) upon 10 days’ prior notice to enter the lot and cut back the offending tree or trees. The homeowner can then be assessed for the cost of the work.*

*The Board generally agreed with the above guidelines. It was felt that actually entering a lot and cutting back a tree was an extreme step and should be avoided unless all other options had been exhausted. It was also recognized that many homeowners bought their homes with established trees already existing on the lots. It is not unreasonable to expect homeowners to trim back such trees intermittently. It would, however, be unreasonable to ask that they trim back the trees excessively or remove them. Carla recommended that if the ARB found the existing guidelines to be inadequate, they should develop new guidelines that would have to be approved by the Association as a whole.”*

The Board again reviewed this matter in the light of Carla’s above opinion. The following guidelines were agreed to:

- If there is a dispute between neighbors regarding a tree or trees, every possible effort should be made to settle the issue amicably between them without involving the EP ARB or the neighborhood Association.
- If the issue cannot be resolved, then the complaining homeowner should file a complaint with the relevant neighborhood Association. In doing so, the complaining homeowner should provide documentary evidence showing that he/she has made every possible effort to resolve the issue privately.
- If the neighborhood Association lacks paragraphs in its CC&Rs regarding tree heights or declines to get involved in the dispute, then the complaining homeowner should refer the matter in writing to the EPARB which will evaluate the problem in the light of the above recommendations from Carla Skeen. The ARB should then attempt to resolve the matter amicably between the neighbors.
- If either homeowner involved in the dispute is dissatisfied with the ruling of the EP ARB, they may appeal the matter to the EP Board of Directors.
- The EP Board will not become involved in the trimming of trees located in arroyos.

In conclusion, the Board felt that the above guidelines should be adequate to cover most situations. It was the general opinion of Board members, however, that tree issues should be

approached on a case by case basis and that no overall policy regarding tree heights in EP could be established at the current time. In answer to a question from Rex Wilmore, most Board members felt that they would not readily support a policy of entering private property and cutting back trees despite our apparent right to do so as outlined in Article 6, Paragraph 18 of the EP CC&Rs. Such a step might involve legal issues in which the Board would be reluctant to become involved.

#### **Concrete Sidewalk Repairs along Avenida Primera:**

This matter has been pended from previous Board meetings. There is some concern that the concrete sidewalk has deteriorated in certain locations along Avenida Primera. John LeMaster reported that in the many homes he had constructed in EP, the lot line always extended to the inner edge of the concrete sidewalk. The area between this inner edge and the curb belonged to the City of Santa Fe both along Avenida Primera and within neighborhood subdivisions. The City, although it owns this area, takes the position that the adjacent homeowner is responsible for keeping the adjacent sidewalk free of snow and ice and for making repairs should concrete blocks deteriorate. John also pointed out that in most instances colored concrete is involved. This is very expensive and it could cost an individual homeowner as much as \$1,000 to replace a single concrete block. Accordingly, he recommended that if the Board wished to get the concrete sidewalk repairs done along Avenida Primera it would be less costly if the Board contracts with a Concrete Company to do all the work at the same time and then bills the adjacent homeowners individually according to the amount of concrete that had to be replaced outside their homes. This would be better than EPCSA paying for the cost of the repairs. If the Board does that it tacitly assumes liability for the sidewalk and for injuries resulting from falls on damaged concrete sidewalks along Avenida Primera. John thought that a similar principle could be applied within Neighborhood subdivisions. As far as concrete curbs are concerned, John felt that their repair was probably the responsibility of the City. The Board did not reach any conclusion on this matter and no decision was taken.

**Letter to Homeowners from Michael Cross:** It was unanimously agreed that this letter should go out with the annual mailing announcing the August meeting and should contain a reference to the garbage problem. Other active issues like barking dogs, for example, should also be addressed in the letter. There was no agreement among Board members about including a reference to tree heights in the letter. Some Board members felt that mentioning this might reactivate a largely dormant issue and precipitate a flood of complaints to the EPARB. This matter will be finalized at the July Board meeting.

#### **8. Pending Matters:**

- a. Concrete repairs on Avenida Primera (Board meeting 10/14/08)
- b. Transfer of a CD to another bank on maturation (Board meeting, 10/14/08)
- c. Need for Certificates of Liability and Worker's Compensation Insurance for workmen hired by EPCSA - Pennington Way (Board meeting, 4/14/2009)
- d. Clubhouse Insurance Review – Pennington Way (Board meeting, 3/10/09)

#### **9. Adjournment:** The meeting adjourned at 9:05 am.



**EPCSA Board of Directors**  
**Meeting Minutes**

**July 14, 2009**

**Members Attending:** Michael Cross, Beverlee Anderson, Errol Levine, Rex Wilmore, Carol Seghers, Mary Walta, Pennington Way and John LeMaster.

**Guests Present:** Frank Jackunas, Jay Winter and Suzie O'Neill.

The meeting was called to order at 8:02 am by Michael Cross

1. **Approval of Minutes:** Upon motion by Beverlee Anderson, seconded by Rex Wilmore, the minutes of the Board Meeting of 6/9/09 were approved by all as submitted with one correction. This is that Mary Walta is serving out the unexpired portion of Catherine Beck's term on the EP Board. Mary will therefore be up for reelection in 2010 and not in 2009 as stated in the minutes.
2. **Treasurer's Report:** Beverlee Anderson presented a Balance Sheet as of July 13, 2009, Revenues and Expenditures for January through December 2009 as compared with the period January through December 2008 and a Profit and Loss Budget for January 1 through July 13, 2009 as compared with the total budget for 2009 (attached). These documents were noted by the Board. Beverlee reported that Michael Muller of 789 Avenida Primera South had paid his outstanding dues for 2009 after a letter was mailed to him by Michael Cross. Three homeowners have not yet paid their late fees for late payment of dues for 2009. Beverlee will add the late fee (\$36) to their 2010 invoices. The Board agreed with this approach. Beverlee also distributed a copy of a letter from Fred Karam of Cresta addressed to the Paseo Cresta Homeowners Association regarding problems with water runoff on his property. A copy had been sent to EPCSA (attached). The Board noted that this is a matter between Mr. Karam and the Cresta Homeowners Association and that EPCSA has no responsibilities in this matter. Mary Walta indicated that she was dealing with this issue. She had contacted the Insurance Company that provides liability insurance coverage for the Cresta Homeowners Association about the matter.
3. **Grounds and Clubhouse Report:** Frank Jackunas submitted a report (attached). The Board noted the items in the report. Suzie O'Neill, who had instigated the City cleanup of the Arroyo Saiz at the west end of Los Nidos, noted that the work was incomplete. Although brush, debris and undergrowth have been removed from the area by the City, she noted that the Fire Department had recommended that the lower branches of trees should be removed for a distance of 5 – 10 feet from the ground level. This had not yet been done. Apart from the fire risk posed by the trees, Suzie felt that the trees provide hiding places for homeless people. She showed the Board examples of debris she had found in the arroyo that presumably originated from homeless people sleeping there. The Board asked Frank Jackunas to continue to pursue this matter with the City. The Board discussed information provided by Frank Jackunas regarding the irrigation system for the plantings at the Clubhouse. It was noted that repairing and restarting the two-zone irrigation system would cost about \$1,500 - \$1,750. Michael Cross informed the Board that the system had not been operational for 2-3 years. During this period the trees and shrubs had received only natural water and had survived without problems. The Board therefore decided that repairing and restarting the irrigation system was not needed at this time. Beverlee Anderson asked Frank to arrange for a small sign to be placed at the entry to the pool area asking pool users to please sign in since the number of pool users has a bearing on our Liability Insurance coverage.

4. **ARB Report:** Pat Jackunas reported by e-mail that the ARB had not had any further activity since her previous report.
5. **Parking Issues:** Mary Walta indicated that she had investigated parking issues in EP. Article 6, paragraph 9 (Use Restrictions) in the EP CC&Rs states as follows:

*“**Vehicles.** No vehicle of any type, motorized or otherwise, shall be operated on any Common Area except as authorized by EPCSA. No automobile or other motor vehicles shall be parked in any Common Area or in any public or private street within the Property except in designated parking areas and no portion of any Lot or Living Unit which is intended to be used as a garage or carport shall be used or converted for use for any other purpose. No vehicles shall be kept or stored in any Common area or in any public street, private street or driveway area within the Property for purposes of accomplishing repairs thereto or the reconstruction thereof, except as is permitted by the Board of Directors.”*
6. **Annual Meeting:** The annual Financial and Budget meeting will be held on Monday, August 17 and the Annual General meeting will be held on Tuesday, August 18 at 7:00 pm. Beverlee reported that she will undertake the following tasks in preparation for the two meetings:
  - She will provide a Treasurer’s Report and Provisional Budget for 2010
  - The minutes of the meeting of August 19, 2008 will be posted on the EP web site
  - Proxy and nomination forms will be posted on the EP web site
  - A letter regarding the above meetings will be mailed to all homeowners one month prior to the meeting dates. The letter will direct their attention to the forms and minutes posted on the EP web site. A notice regarding garbage issues (discussed at the previous Board meeting) will be drawn up by Michael Cross and will be included in the mailing
  - The letter will indicate that the following Board members’ terms expire in August 2009 and that all have agreed to run for reelection for a new two-year term: Carol Seghers, Michael Cross, John LeMaster, Rex Wilmore, and Beverlee Anderson.
7. **Insurance Issues:** Jay Winter, the owner of Blue Chip Insurance, attended the meeting by invitation. He presented a Commercial Insurance Package Renewal Proposal for EPCSA using the Cincinnati Insurance Company for the period August 31, 2009 – 2010 (attached). The proposed policy is based on the recent appraisal information for the Clubhouse and its facilities provided by Bob Lockwood and has a total blanket property limit of \$1,000,000. Bob Lockwood’s appraisal had resulted in an increase in the building value of about \$200,000. Jay indicated that he had removed items covered in the appraisal that would not normally be covered by an insurance policy and had rounded the required coverage to \$1,000,000. The policy document indicated that there were 164 homes in EPCSA, but Michael Cross pointed out that the correct number was 179. Jay indicated that he was recommending that EPCSA change its insurance coverage from the Philadelphia Insurance Company to the Cincinnati Insurance Company because the latter is cheaper and provides broader coverage. The deductible in the proposed policy is \$500. The annual premium for the proposed renewal coverage is \$6,753 which is about \$400 higher than we paid in the current insurance period. The Insurance Company will arrange for EPCSA to obtain legal representation in the event that the Association is sued. Jay indicated that generally the Company will settle a claim before extensive legal costs are incurred. The Liability policy does not include Directors and Officers Insurance coverage which is also up for renewal on August 31. EPCSA is currently insured through Philadelphia for this, but Jay will recommend at least two other companies that are competitive. The proposed coverage is for \$1,000,000. Jay will need a signed application for such a policy from EPCSA.

The Liability policy Jay recommended does not include Workers Compensation coverage. The Board discussed whether there is a need for such coverage. Jay indicated that he understood that EPCSA does not have any employees. He felt that if we employ only Independent Contractors or Subcontractors that Workers Compensation coverage would not be needed. Such individuals run their own businesses and are required by law to provide Workers Compensation coverage for their employees. If, however, EPCSA employs individuals to perform odd jobs, the General Liability Policy will not provide coverage for injuries sustained by such individuals during their work for EPCSA. If we hire such individuals to perform work in EP, EPCSA would need to obtain a Workers Compensation policy and the latter would cost about \$820 per annum.

After Jay left the meeting, the Board discussed the various proposals that had been made. Most Board members felt that the total Blanket Property Limit of \$1,000,000 was too high and that \$800,000 would be a more appropriate figure. It was also felt that a deductible of \$500 is too low. A deductible of \$1,000 or even \$2,500 would be more appropriate. Michael Cross will explore whether lowering the replacement value for the Clubhouse and increasing the deductible will result in a significant financial saving. If the saving is large, the lower replacement value and higher deductible would be preferable. If the savings are small, then we should adhere to the \$1,000,000 replacement figure and \$500 deductible. Michael Cross will submit an application for Directors and Officers Insurance and we'll try to get a better rate for this policy that we currently pay.

Most Board members believed that we should not get involved with Workers Compensation coverage. It was felt that this could lead to increased involvement of the State in the affairs of EPCSA and could result in our getting involved with tax, social security and Medicare issues. Most Board members agreed that it would be preferable to pay higher rates to hire Independent Contractors with Insurance Coverage of their own than to employ private individuals whom we would have to insure ourselves even though this might result in individual jobs being more costly. The issue of Frank Jackunas was discussed because he is a part-time employee of EPCSA. Some Board members felt that Workers Compensation coverage would be necessary for Frank, but the legal situation regarding part-time employees is unclear. Mary Walta offered to research NM law about this issue on behalf of the Board. In conclusion, the Board was unable to reach any final decision regarding the above insurance matters. Michael Cross will obtain further information about the various issues raised. He will then contact Board members by telephone to inform them of any new information that becomes available. A decision about Liability and Directors and Officers Insurance could then be made before the renewal date of August 31 without the need for an additional Board meeting. Beverlee Anderson asked Frank Jackunas to ensure that two complete sets of blueprints were available for the Clubhouse for insurance purposes. One should be kept by her or Frank at their homes. It would be helpful also if Frank could arrange for the blueprints to be digitized.

8. **Pending Matters:**

- a. Concrete repairs on Avenida Primera (Board meeting 10/14/08)
- b. Transfer of a CD to another bank on maturation (Board meeting, 10/14/08)

9. **Adjournment:** The meeting adjourned at 9:05 am.

## **Clubhouse Manager's Report**

**Tuesday, July 14<sup>th</sup>, 2009**

- Along with Suzie O'Neill, per her request, met with representatives of City of SF Street & Drainage as well as SF Wildland/Urban Interface Departments to review erosion and fire risk mitigation issues along arroyo behind the clubhouse tennis court. Resulted in subsequent removal of brush and undergrowth by the City, and a promise to take care of the washed-out areas as soon as scheduling permits. Follow-up letters were written to both department heads.
- Per last month's BOD meeting, 2 "No Parking" signs were purchased and installed near the front of the clubhouse. SF PD phone #428-3700 noted on signs.
- As scheduled, Mossman completed installation of new pool cover on June 19<sup>th</sup>. Works great. Through Sunday July 12<sup>th</sup>, there have been 360 sign- ins for pool use since opening the third week of May. (Water temperature is maintained at 83-84 degrees F).
- Added another 2 coats of water sealer (Thompson's) to exterior wood facing swimming pool. First application (tung oil) didn't take well.
- Protection One, formerly PSI, was called to repair fault in alarm system. Tech said there would be no charge.
- KC Landscaping scheduled this week to prune Russian olive at North side of clubhouse, remove the two located near North parking lot entrance, and perform some routine neighborhood maintenance.
- Reviewed re-starting our 2-zone irrigation system. General consensus is that there is an electrical short in the low voltage line running from front of clubhouse, underneath the driveway, thus preventing activation of the 2 control valves located near the South parking lot entrance. Repairs would entail the following:
  - Inspection and repair of water delivery system as needed.
  - New wiring from outlet at NE corner of tennis court to the valve box.
  - Installation of a new timer.
- Work would be done on a time and material basis, and the total cost would be \$1,500 - \$1,750, depending on system inspection results. Figures are based on a consensus of on-site meetings with Santa Fe Landscaping (formerly Enchantment Tree, the people who did the initial installation in 1998), Just Sprinklers, Scott's Irrigation, KC Landscaping (our current landscaper), Sustainable Solutions, and AllTech Electric.

Frank Jackunas

## ESTANCIA PRIMERA COMMUNITY SERVICES ASSOCIATION

### ANNUAL MEETING MINUTES

August 18, 2009

The Annual Meeting of the Estancia Primera Community Services Association was called to order by Michael Cross (President) at 7:05 pm at the Culpin Recreation center. Other Board members present were Beverlee Anderson, Errol Levine, John LeMaster, Carol Seghers, Pennington Way, Rex Wilmore, Virginia Brewer and Mary Walta.

1. **President's Welcome:** Michael Cross welcomed everyone to the 21<sup>st</sup> Annual Meeting. He indicated that the Board of Directors is composed of representatives from most of the nine neighborhoods in Estancia Primera. The Board meets at 8:00 am on the second Tuesday of every month and all homeowners are welcome to attend the meetings as guests.
2. **Approval of 2008 Meeting Minutes:** Upon motion by Beverlee Anderson, seconded by Ginny Brewer, the 2008 annual meeting minutes were approved unanimously as submitted.
3. **Introduction of Current Board Members:** Michael Cross (Cumbre Vista) introduced Ginny Brewer from La Viveza (Vice-President), Beverlee Anderson from Aspen Compound (Treasurer), Errol Levine from Los Nidos (Secretary), and members at large John LeMaster (Los Altos), Carol Seghers (Altamira), Rex Wilmore (Kachina Hills), Mary Walta (Paseo Cresta) and Penn Way (Los Altos). He thanked all the Board members for their contributions.
4. **Election of New Board of Directors:** The following board members' terms expire in August 2009: Michael Cross, Beverlee Anderson, John LeMaster, Rex Wilmore and Carol Seghers. All have agreed to serve another term. Lois Callahan moved and Bob Lockwood seconded that these individuals be re-elected for another two-year term. The motion passed unanimously.
5. **President's Report (Michael Cross):** Mike Cross reported that it had been a quiet year for EPCSA as compared with 2008. It had been a low snow year, there had been no major breakdowns at the Clubhouse and there had been very little new construction in EP. The Board of Directors takes pride in the fact that our annual dues remain at \$360 per year and endeavors to spend funds as wisely as possible. Michael indicated that the biggest challenge we face is skyrocketing crime in Santa Fe. This means that EP continues to be a target for burglars. We have many houses vacant for long periods and thieves know that Estancia Primera is an affluent neighborhood. The following steps should be taken to prevent burglaries:
  - Homeowners should use their monitored security systems and have a small exterior sign indicating that the property is being monitored. If homeowners have a monitored alarm system, they should always set it before leaving the home even for short periods.
  - Homeowners should create an atmosphere of activity around the home during their absences by stopping newspapers and using lights and radios on timers.
  - Homeowners should report any suspicious activity by calling Police Dispatch at 428-3710 for **Non-Emergency** issues and 911 in the case of an emergency.

Solicitors are not allowed in EP, there being a City sign prohibiting soliciting at both EP entrances. Many solicitors are not actually selling anything or collecting for charity but are actually surveying homes for possible burglaries. If solicitors are seen in the neighborhood, the police should therefore be contacted. Slow-moving unfamiliar vehicles particularly those without lights on at night should also raise the concern that potential burglars are in the neighborhood and should prompt a call to the Police Department.

- Homeowners should inform neighbors or trusted friends when they will be out of town and leave telephone numbers at which they can be contacted if a problem arises. Michael indicated that there are 189 lots in EP and ten of these do not have homes on them. So there are 179 homes in EP. Only 40% of these are occupied throughout the year and unoccupied homes are a favorite target for burglars.
- Homeowners should use the Neighborhood Watch List to spread word of problems occurring around the neighborhood.
- The Police Department recommends that homeowners keep records of serial numbers of valuable item like TVs, computers and other electronic equipment so that stolen equipment that is recovered can be returned to the rightful homeowner.
- Most burglaries occur during the day time in residential neighborhoods. The usual route of entry is the front door which is kicked in. There are methods available for strengthening front doors and making it more difficult for burglars to kick them in.
- If dogs awaken unexpectedly during the night, this should alert homeowners to the possibility that burglars are in the vicinity.
- Modern garage door openers and the remote controls that operate them work on the basis of continuously changing codes. They are therefore not very susceptible to manipulation by potential burglars. However, homeowners wishing to obtain additional security during long absences should consider inactivating the motor for the garage door opener during their absences.

Michael also thanked the following individuals for their valuable contributions to EPCSA during the past year: Frank Jackunas, Pat Jackunas (ARB Chair), Carla Skeen (Legal Counsel), Benita Vasallo and the Women's group, Susie O'Neill (for arranging the Arroyo Saiz cleanup by the City), Jim Hays (for arranging the cleanup of the Kachina Hill arroyo by the City), Penn Way (for revising the Insurance Policy for EPCSA), Beverlee Anderson (EPCSA web master), Pat Haueter (for help with pool opening and closing), Bob Lockwood (for his help on the appraisal of the Clubhouse and its facilities) and all the Board members for their efforts and advice. Rex Wilmore indicated that there was a definite need for more volunteerism in the neighborhood. He felt that most of the work in the neighborhood was being performed by the same small group of volunteers who had been doing it for many years. He encouraged others to step forward and help with the maintenance of their community.

6. **Treasurer's Report (Beverlee Anderson):** Beverlee reported that the formal annual Budget/Financial meeting had been held on August 17th. EPCSA is in good shape and we have a balanced Budget. All dues were paid for 2009 although three homeowners owe late charges that will be added to their 2010 invoices. The Association keeps most of its funds in bank CDs and has a small cash bank account. We work on a zero budget system and do not spend more than our annual income in dues. The Reserve Fund is available for use when there are major and unexpected expenses. The financial documents of the Association are

available for review at the EPCSA web site. Beverlee indicated that a homeowner's roster is available to homeowners and can be obtained if they send a request to her by e-mail. She emphasized that the roster should not be shared with anyone outside the neighborhood since such sharing can result in unwelcome solicitations by mail, telephone or e-mail.

7. **ARB Report (Pat Jackunas):** Beverlee Anderson presented the report. One new home in Los Altos has been completed and a few landscaping projects have been approved and completed. There is a problem with a couple of roofs that are too light or white in color. This matter is currently being addressed with the homeowners. Homeowners are asked to submit plans and applications for any exterior changes to their homes prior to any work being started. Applications should be submitted first to the neighborhood Architectural Committee and then to the EP Architectural Review Board. Failure to do so can have unpleasant consequences. Pat requested that homeowners having any questions or concerns about architectural issues should contact either her or the neighborhood Architectural Committee members. Application forms and the Architectural guidelines can be found at [www.estanciaprimera.org](http://www.estanciaprimera.org).
8. **Clubhouse and Grounds Report (Frank Jackunas):** Full details are available in the attached report (below). Frank indicated that there are several pending projects for which he is obtaining estimates. These projects will require approval by the Board of Directors. They include repair or replacement of loosening decorative tiles on the inside of the pool, recovering of cushions on the pool-side lounge chairs, major stucco repairs on the Clubhouse building (approximate cost \$25,000 - \$30,000), resurfacing of parts of the tennis court and repainting of the racquet ball court walls. One homeowner questioned Frank as to how many homeowners used the racquet ball court and suggested that the space might be better allocated to a more useful purpose. Frank indicated that there were at most about 8 regular users of the court. Most homeowners felt that it would be more expensive to get rid of the court than to continue to maintain it. In the future, however, Frank will leave a sign-in sheet at the court so we can get a better idea of how many homeowners actually use it. Frank indicated that there are several areas along Avenida Primera that require repair of the concrete sidewalks. According to a City ordinance, individual homeowners are responsible for maintaining the concrete sidewalk outside their homes, but EPCSA is responsible for maintaining the concrete sidewalk outside the Clubhouse and in other areas where there are no adjacent homes. Frank had obtained two bids in October 2008 for repair of these areas. The one was for \$6,024 (502 sq. feet) and the other for \$5,613 (400 sq. feet). Repair of concrete curbs along Avenida Primera is probably the responsibility of the City of Santa Fe.
9. **Women's Group Report (Benita Vassallo):** Ginny Brewer presented the report and described the activities for 2008. She thanked Benita Vassallo for her efforts. Volunteers are needed to take on Benita's current responsibilities as group leader for 2010.
10. **Adjournment:** The meeting was adjourned at 7:45 pm.

Minutes prepared by Errol Levine (Secretary)

**EPCSA Board of Directors**  
**Meeting Minutes**

**September 14, 2009**

**Members Attending:** Michael Cross, Errol Levine, Rex Wilmore, Carol Seghers, Mary Walta and Virginia Brewer. Pennington Way and John LeMaster had submitted written proxies for the meeting.

The meeting was called to order at 7:59 am by Michael Cross

1. **Approval of Minutes:** Upon motion by Ginny Brewer, seconded by Rex Wilmore, the minutes of the Board Meeting of 7/14/09 and of the Annual General Meeting of 8/18/09 were approved by all as submitted.
2. **Beverlee Anderson:** Michael Cross reported that this current meeting is a special meeting. The scheduled meeting of 9/8/09 had been canceled because of the untimely death of Beverlee Anderson. The Board recognized the outstanding services that Beverlee had provided to EPCSA at every level over a period of many years. It is recognized that she will be difficult to replace and she'll be missed by everyone. A floral tribute had been sent on behalf of the Board to the funeral home. Board members were unanimous that a tasteful permanent memorial for Beverlee should be set up either in the grounds of EP or at the Clubhouse. Considerations include a bench with a plaque at some location and naming the EP website for her. The Board asked that Pat and Frank Jackunas, who were close friends of Beverlee's, should be approached for their recommendations.
3. **Election of Officers:** The following officers were elected unanimously for the period September 2009 through August 2010:
  - President: Michael Cross – elected by acclamation
  - Vice-President: Virginia Brewer – nominated by Errol Levine, seconded by Rex Wilmore
  - Secretary: Errol Levine – nominated by Ginny Brewer, seconded by Rex Wilmore
  - Treasurer: Rex Wilmore – nominated by Errol Levine, seconded by Ginny Brewer
4. **Assignment of Responsibilities and Positions:** The following duties previously fulfilled by Beverlee Anderson were assigned or will be assigned as follows:
  - a. ***Maintenance of EP Website:*** Rex Wilmore. Rex will investigate whether someone should be hired to maintain the website or whether a volunteer in EP can be found to do this task.
  - b. ***Ninth Member of EP Board of Directors:*** Beverlee represented Aspen Compound on the Board. Michael Cross will approach the Aspen Compound Homeowners Association about their recommending a replacement for Beverlee. Possible replacements include Dr. William Schiller and Holly Eakes. Board members thought that both would be excellent choices if they were willing to serve on the Board.
  - c. ***Aspen Compound Representative on the EP ARB:*** Beverlee represented Aspen Compound on the ARB and was the Secretary to the ARB. Pat Jackunas will be requested to find an Aspen Compound volunteer to serve on the ARB (subject to the Board's approval) and also to find a secretary for the ARB. Michael Cross will obtain the ARB files from Dr. Schiller.
  - d. ***EP Neighborhood Roster:*** Since Rex will serve as Treasurer, it was thought logical that he should maintain the confidential neighborhood roster. The Board noted that the roster will need to be updated. It should also include as many e-mail addresses as possible to permit timely distribution of Association information to everyone. Neighborhood Homeowner Associations will be asked to provide updated lists of residents. It was recognized that some homeowners do not wish either their telephone numbers or e-mail addresses to be published and some homeowners do not own computers. Although such wishes will be respected, such homeowners may miss out on information that is distributed only e-mail.
  - e. ***Keys:*** Michael Cross will obtain Beverlee's keys from Dr. Schiller.



- f. **Checking Accounts:** Michael will obtain files, checks and bank statements from Dr. Schiller.
  - g. **Savings Accounts and CDs:** Michael will obtain files and statements from Dr. Schiller.
  - h. **Bank Arrangements:** Rex Wilmore, Ginny Brewer and Michael Cross will visit Century Bank together and have all three of their names placed on all accounts that we have with the Bank. The small account for ARB deposits will be closed.
  - i. **Outstanding Invoices:** Michael will obtain these and other expenditure records from Dr. Schiller.
  - j. **Newly Purchased Software:** Michael will obtain software CDs and passwords from Dr. Schiller. It is recognized that software for maintenance of the website and for handling of finances will require re-registration so that Rex Wilmore can use it on his home computer.
5. **Grounds and Clubhouse Report:** Frank Jackunas was not present, but had submitted a list of bids for repainting the racquetball court, replacing or recovering lounge chair cushions in the pool area and repairing of the tennis court (attached). These matters will be discussed at the October Board meeting.
6. **ARB Report:** The EP ARB is currently dealing with a complaint originating from Mary Lawton of 609 Cumbre Vista. Ms. Lawton alleges that a cottonwood tree on the adjacent lot of Richard and Jane Schwartz of Kachina Hills (569 Avenida Primera) is blocking her sunset views. Michael Cross reported that the last ARB meeting about this matter had been highly contentious. Beverlee Anderson, in particular, had been very upset by the unpleasant atmosphere that had developed around the dispute and the uncivil and intimidating behavior resorted to by various people who had become involved in this matter. The ARB had been unable to reach a decision at its previous meeting. Pat Jackunas will soon convene another meeting to deal with the matter. After that, depending on the outcome of the ARB deliberations, either party in the dispute may appeal the ARB decision to the EP Board of Directors for a final determination. Michael expressed the hope that the matter could be resolved in a civil manner, but pointed out that a successful outcome will involve many compromises.
7. **New Business:**
- a. **Contractor and Homeowner Responsibilities:** A contractor employed by a homeowner in Los Nidos for internal remodeling had spilt a container of chemicals in the Avenida Primera concrete gutter on the south side of Los Nidos. The chemical had stained the entire gutter all the way to the Los Nidos entry. Errol Levine had referred the matter to Frank Jackunas since a common area belonging to EP was involved. Frank had immediately contacted both the homeowner and the contractor and the stains were removed using muriatic acid. The Board noted that while ARB-approved projects involve performance deposits that could be used to cover damage to common areas occurring during exterior projects, many neighborhoods have multiple interior projects in progress at any one time. Also, there are many exterior projects such as stucco and roof replacements that are not submitted for ARB approval. Such projects have the potential for causing serious damage to common areas in EP and in neighborhood subdivisions. The Board noted that homeowners and contractors are responsible for all cleanups during and after a project and for effecting prompt repairs of any damages caused to the common areas. Should problems occur, both the contractor and the homeowner should be advised promptly that repair of damages will be their responsibility.
  - b. **Mass E-Mailing:** Since it is the Board's intent to communicate with EP homeowners by e-mail whenever possible, a service for mass e-mailing will be required. Mary Walta indicated that she was aware of a company that did this inexpensively and she will send the information to Rex Wilmore.
  - c. **Proxies for Board Meetings:** The Board agreed that it was acceptable and desirable for Board members to submit proxies if they were unable to attend a Board meeting. Proxies must be in writing and may be sent by e-mail or by letter to the Secretary and should name the Board member to whom the proxy has been assigned.
  - d. **Quorum for Board Meetings:** Article VI.9.C of the Amended Bylaws of EPCSA indicates as follows: "A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors."

- e. ***Clubhouse Wireless Internet Access:*** It was noted that there is no evidence that this service is being used widely by EP homeowners. The Board therefore agreed that the expense for providing the service was not justified. A motion by Carol Seghers, seconded by Rex Wilmore, to discontinue the service was approved unanimously. Frank Jackunas will be asked to arrange this after he can obtain the account information from Rex Wilmore.
  - f. ***Availability of EP Records:*** Michael Cross reported that Article 11, section 4 of the Amended Bylaws of EP indicated that the books, records and papers of EPCSA shall, at all times, be subject to inspection by any Member of EPCSA. This includes minutes and any documents that are attached to the minutes as indicated by the word “attached” in the official version of the minutes. EPCSA members are, however, not entitled to access to private communications between EPCSA and other persons or entities that are not included in the official records and are not entitled to access to private e-mail communications between Board members and between the Board and other parties unless these are filed with the EP documents or attached to the minutes.
  - g. ***EP Records:*** It was generally agreed that the EP records require reorganization. Some records should be discarded. Old bills, for example, do not need to be retained unless there are tax implications. All minutes should be retained. Warranties need to be kept. Neighborhood Association documents should be turned over to the relevant Associations. Carla Skeen should be consulted regarding what documents need to be kept and which may be discarded. Space can be saved by storing some documents on CDs that should preferably not be kept at the Clubhouse because of the potential for loss if a fire occurs there.
  - h. ***New Software:*** Rex Wilmore requested the Board’s permission to purchase new software to generate lists for data bases since MS Excel is not good for this purpose. He felt that the cost would be about \$150. He will investigate and report back to the Board.
  - i. ***Annual Dues:*** Carol Seghers expressed concern about the change in due dates for the annual EPCS dues that had been made at the April 14, 2009 Board meeting. She was concerned that the policy change might result in premature filing of liens against homeowners who might not have received the annual statements in their mail. Michael Cross read the following extract from the minutes of the April meeting. “The following motion was then made by Beverlee Anderson and seconded by Errol Levine: *For 2010 and onwards, the annual dues statement will be mailed out at the beginning of January and no later than January 15. The dues will be payable not later than February 15. Homeowners who do not make their payments by February 15 will receive a second statement by mail and will have to pay a late charge of \$36. If the total amount of \$396 is not paid by March 10, the Treasurer will send a certified letter to the homeowner indicating that if full payment is not received by March 15, a lien will be filed against the home. The letter will further indicate that in order to cure the lien, the homeowner will be responsible for an amount that will include the dues payment (\$360), the late charge (\$36), Association administrative costs, the cost for filing of the lien and any attorney’s costs.* The motion was approved with two Board members dissenting.” Rex Wilmore felt that this amended policy would simplify his job as Treasurer. Another intent of the revised policy was to try to bring in revenue earlier in the year to cover large expenses that often arise in the spring time. It was felt that filing a lien against a homeowner for non-payment would always be a last resort. It would not be done unless all other possible avenues for collecting the dues had been followed.
8. **Pending Matters:**
- a. Concrete repairs on Avenida Primera (Board meeting 10/14/08)
  - b. Transfer of a CD to another bank on maturation (Board meeting, 10/14/08)
  - c. Letter from Scott Sullivan (8/10/09)
9. **Adjournment:** The meeting adjourned at 9:05 am.

**EPCSA Board of Directors**  
**Meeting Minutes**

**October 13, 2009**

**Members Attending:** Michael Cross, Errol Levine, Rex Wilmore, Mary Walta, Virginia Brewer, Pennington Way, John LeMaster and William Schiller. Carol Seghers submitted a written proxy and assigned it to Errol Levine.

**Guests Attending:** Pat Jackunas (Kachina Hills), Paulette Cross (Cumbre Vista), John Amos (Cumbre Vista), JT and Lucille Kissock (Aspen Compound), Susie O'Neill (Kachina Hills), Joe Fertitta (Los Nidos), Frank Bugg (Los Altos), Ed Mange (Los Nidos), Charles and Ann Bailus (Cumbre Vista), Bob Lockwood (Los Nidos) and Jim Hays (Kachina Hills).

The meeting was called to order at 8:05 am by Michael Cross (President)

1. **Approval of Minutes:** Upon motion by Ginny Brewer, seconded by Mary Walta, the minutes of the Board Meeting of 9/14/09 were approved by all as submitted.
2. **New Board and ARB member:** Michael Cross reported that Jacob Waltz, President of the Aspen Compound Homeowners Association had written him on behalf of their Board nominating Dr. William Schiller to represent their neighborhood on both the EP Board and on the EP ARB. A motion by Errol Levine, seconded by Rex Wilmore, that Dr. Schiller be elected to both Boards was adopted unanimously.
3. **Treasurer's Report:** Rex Wilmore reported that he had recently taken over the Treasurer's responsibilities. There are about \$22,000 left in the current year's collections and something under that figure in planned expenditures. Rex indicated that he is updating the address list for EP and wishes to have as many e-mail addresses as possible in the data base. He asked that Board members update the lists of homeowners for their neighborhood subdivisions. He distributed a Profit and Loss Budget versus Actual expenditures document for the period January 1 through October 10, 2009.
4. **Clubhouse and Grounds Maintenance Report:** Frank Jackunas had submitted a list of items requiring approval (attached). These were deferred until the next Board meeting.
5. **Appeals to the Board of ARB Decisions made on 9/17/09:**  
**Introduction:** Michael Cross indicated that the proceedings would be recorded. Only Board members, Pat Jackunas (ARB Chair) and individuals representing affected parties would be allowed to speak during the hearings. Two ARB decisions are on appeal to the Board. The first is Lawton/Brock versus Schwartz. Mary Lawton (609 Cumbre Vista) alleges that a cottonwood tree on the adjacent lot of Richard and Jane Schwartz of Kachina Hills (569 Avenida Primera) impairs her Jemez view. The ARB had voted that the Schwartz's not be required to do anything about the tree, but that Jim Hays and the Kachina Hills Homeowners Association should work with the Schwartz's on the trimming of the alleged offending tree. Virginia Brewer (694 La Viveza Court) had complained about impairment of her Sangre view by trees on 3 lots in Aspen Compound. The ARB had voted that the Aspen Compound homeowners not be required to do anything about their trees, but that Lee Warren and the Aspen Compound Homeowners Association should work with the tree owners on the trimming of their trees.  
**Proxies and Proxy Votes:** Michael Cross stated that proxies from Board members would not be allowed. Errol Levine requested a reason for this decision since two Board members had submitted written proxies for the Board meeting on 9/14/09 and these had been accepted. Additionally, proxies had been accepted at other past Board and ARB meetings and there had been no objections to accepting proxies then. He had received the proxy of Carol Seghers for the current meeting since

she had an out of town engagement. She had left written instructions regarding how he should vote on her behalf in the matters before the Board. Mary Walta stated that the EP Bylaws did not allow for the acceptance of proxies at Board meetings. Article VI, Section 9, paragraph C of the EP Bylaws states that *“every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.”* Errol Levine then moved and Bill Schiller seconded that proxies be accepted for the meeting based on established precedent. Four Board members (John LeMaster, Pennington Way, Errol Levine and Bill Schiller) voted in favor and four members (Ginny Brewer, Michael Cross, Mary Walta and Rex Wilmore) voted against the motion. **The motion is therefore not adopted.**

**Lawton/Brock versus Schwartz Appeal:** The appeal was made under the provisions of Section 6.18 of the EP CC&Rs. Pat Jackunas reported that the two parties could not reach agreement. The Schwartz’s felt threatened and intimidated by statements allegedly made to them by Lawton/Brock. Their cottonwood tree provides shade to their property. However, it blocks the Jemez view from the kitchen and portale of the Lawton/Brock residence during the summer. The Schwartz’s had told Pat that they are willing to trim the tree provided that they are not singled out. Pat reported that the ARB was concerned by comments made by Lawton/Brock to the effect that their complaint against the Schwartz’s was a “test case” and that 7-8 other nearby cottonwood trees along Avenida Primera (in Los Nidos and Kachina Hills) would ultimately be targeted if the complaint were successful. Michael Cross indicated that he had a letter from Mary Lawton indicating that she would accept trimming of the tree as an alternative to cutting it down. Tree removal is not a remedy offered under Section 6.18. Pat Jackunas explained that the ARB had exercised the discretion given it by Section 6.18 not to do anything about the matter.

Bill Schiller inquired how tall the Schwartz’s tree was, but this information is not available. He asked whether the satisfactoriness or otherwise of the tree trimming (if the Schwartz’s agreed to do it) would be determined by Lawton/Brock, the Schwartz’s, a tree professional or a Board of Directors’ majority. Bill felt that some standard was required and it was not provided by the covenants. He also asked how much of the view should be restored. He asked whether it should be 1/2, 3/4 or some other amount. Bill thought that homeowners affected by Section 6.18 might incur significant costs since they might have to trim their trees again and again. Pennington Way agreed. Bill thinks that EPCSA should consider paying for trimming in these circumstances.

Pat Jackunas reported that Jim Hays had contacted the Schwartz’s regarding the appeal and was representing the Schwartz’s. Michael Cross said that he would allow Jim Hays to speak on the Schwartz’s behalf. Jim Hays rose to speak and Mary Walta asked him whether he had a written power of attorney to represent the Schwartz’s. At that point, Jim Hays left the meeting without making any remarks on behalf of the Schwartz’s. He had, however, submitted a note to Pat Jackunas indicating that the Schwartz’s and Johnstones (416 Kachina Court) had agreed to trim their cottonwood trees.

Errol Levine then moved as follows with John LeMaster seconding: **“Resolved, That the EP Board of Directors upholds and approves the two ARB motions adopted on 9/17/09 regarding the matter of Lawton/Brock versus Schwartz.”** The ARB motions are: (a) *Kurt Sommer moved and Bob Lockwood seconded that the Schwartz’s not be required to do anything about their tree.* (b) *Rita Meek moved and Michael Cross seconded that Jim Hays take the request to the Kachina Hills Association to work with the Schwartz’s on the trimming of their tree.* At Mary Walta’s suggestion, Errol amended his motion so that the phrase “...two ARB motions” was replaced by “...two ARB decisions.” At Rex Wilmore’s suggestion Errol also separated his motion into two parts. He moved and John LeMaster seconded as follows: **“Resolved, That the EP Board of Directors upholds and approves the ARB decision adopted on 9/17/09 regarding the matter of Lawton/Brock versus Schwartz namely that Kurt Sommer moved and Bob Lockwood seconded that the Schwartz’s not be required to do anything about their tree.”** Four Board

members (John LeMaster, Pennington Way, Errol Levine and Bill Schiller) voted in favor and four Board members (Mary Walta, Rex Wilmore, Ginny Brewer and Michael Cross) voted against the motion. **The motion is therefore not adopted.**

Errol Levine then moved and John LeMaster seconded as follows: “**Resolved, That the EP Board of Directors upholds and approves the ARB decision adopted on 9/17/09 regarding the matter of Lawton/Brock versus Schwartz namely that Rita Meek moved and Michael Cross seconded that Jim Hays take the request to the Kachina Hills Association to work with the Schwartz’s on the trimming of their tree.**” Seven Board members voted in favor and Mary Walta voted against the motion. **The motion is therefore adopted.**

Mary Walta then moved and Rex Wilmore seconded as follows: “**Resolved, That the EP Board of Directors enforce Section 6.18 of the Covenants and Restrictions and find the Schwartz’s in violation of the covenant and proceed with the remedy provided by Section 6.18.**” Errol Levine pointed out that Section 6.18 includes two caveats. The first phrase in parentheses “*except as reasonably determined by the ARB*” indicates that the ARB has the discretion to consider a number of factors in investigating complaints made under Section 6.18. Carla Skeen (Legal Counsel) listed some of these in a letter to the Board dated 11/1/07. Errol indicated that the second phrase in parentheses in Section 6.18 “*but not the obligation*” means that the ARB has the discretion not to enforce the covenant. He believes also that if an ARB decision is appealed to the EPCSA Board under Section 6.18, the Board has the same discretion under the covenant. Kurt Sommer in his document dated 8/27 prepared for the ARB, had stated: “.....***under the covenants, the EPCSA Board has the option NOT to seek enforcement of the covenant.***” Mary Walta disagreed. She felt that only the ARB has the option and that the Board has the absolute responsibility to enforce the covenants and restrictions. She referred to Section 10.5 of the EP CC&Rs that indicates that the Declaration shall be liberally construed in favor of the party seeking to enforce the provisions thereof. Errol felt that this was a difference of opinion between Kurt Sommer and Mary Walta and that the matter could not be resolved at the meeting.

Michael Cross felt that Kurt Sommer had made some errors in his ARB document. Kurt had stated that Section 6.18 had not been applied previously by the Board and was thus obsolete. Michael disagreed with that. Errol Levine stated that Bob Lockwood agreed with Kurt that no complaint under Section 6.18 had ever come before the ARB or Board. Rex Wilmore noted that the covenants give the Board all kinds of powers that have never been used. Bill Schiller felt, however, that if a power such as that in Section 6.18 has not been used for 27 years, under the law of waivers the power might have ceased to exist. Three Board members (Michael Cross, Rex Wilmore and Mary Walta) voted in favor of Mary Walta’s motion and five Board members were opposed (Pennington Way, Errol Levine, Bill Schiller, John LeMaster and Virginia Brewer). **The motion is therefore not adopted.**

**Virginia Brewer versus Three Aspen Compound Homeowners Appeal:** Pat Jackunas explained that Ginny has photographs showing trees in Aspen Compound that obstruct her Sangre view. Pat said that the ARB had thought that even if the trees were trimmed appreciably, there would still be a view problem because Ginny’s back deck is at a low elevation. Also, even a partial restoration of Ginny’s view would require the cooperation of all three homeowners because of the linear arrangement of the trees. Ginny had said she would accept a recommendation for tree trimming by a licensed tree company even if the recommendation did not result in the restoration of her view. The three neighbors with trees allegedly impairing Ginny’s views are apparently Lee Warren (788 Aspen Compound), Dick Anderson (796) and Mary Azexuenaga (780). Ginny indicated that she had had a good view when she purchased 10 years ago and had hoped that Section 6.18 would protect it. She had written to the President of the Aspen Compound Homeowner’s Association, Dr. Waltz. Dr. Waltz and the Board had declined to take action and recommended that

she deal directly with the three homeowners. She had written to them, but had not received any replies.

John LeMaster then moved and Errol Levine seconded as follows: **“Resolved, That the EP Board of Directors upholds and approves the ARB decision adopted on 9/17/09 regarding the matter of Brewer versus three Aspen Compound homeowners with disputed trees namely that Kurt Sommer moved and Bob Lockwood seconded that the Aspen Compound homeowners not be required to do anything about their trees.”** Three Board members (John LeMaster, Pennington Way and Errol Levine) voted in favor and three Board members (Rex Wilmore, Michael Cross and Mary Walta) voted against the motion. Ginny Brewer and Bill Schiller recused themselves. **The motion is therefore not adopted.** John LeMaster then made the following motion seconded by Errol Levine: **“Resolved, That the EP Board of Directors upholds and approves the ARB decision adopted on 9/17/09 regarding the matter of Brewer versus three Aspen Compound homeowners with disputed trees namely that Rita Meek moved and Michael Cross seconded that Lee Warren take the request to the Aspen Compound Homeowners Association to work with the homeowners on the trimming of their trees.”** Five Board members (Rex Wilmore, Michael Cross, Errol Levine, John LeMaster and Pennington Way) voted in favor and Mary Walta voted against the motion. Ginny Brewer and Bill Schiller recused themselves. **The motion is therefore adopted.**

Mary Walta made the following motion seconded by Rex Wilmore: **“Resolved, That the EP Board of Directors enforce Section 6.18 of the Covenants and Restrictions and find the owners of the disputed trees in Aspen Compound in violation of the covenant and proceed with the remedy provided by Section 6.18.”** Three Board members (Michael Cross, Rex Wilmore and Mary Walta) voted in favor and three board members (Errol Levine, John LeMaster and Pennington Way) voted against the motion. **The motion is therefore not adopted.**

Michael Cross concluded that the Board is therefore now on record as being unwilling to enforce Section 6.18.

6. **Open Discussion on Tree Issues:** Michael Cross invited guests to express their views.
  - a. **Charles Bailus** (Cumbre Vista) stated he had lost 50% of his Jemez views. He asked whether trees have more value than views. He feels he has been damaged financially (due to decrease in his property value) and aesthetically. He regretted that the Board had taken a pass on Section 6.18. He admitted that he was aware of the existence of trees along Avenida Primera when he bought his home 7-8 years ago.
  - b. **Ed Mange** (Los Nidos) complained that on 10/12/09 some tree pruners had “cut the tops off some trees” near the mailboxes to protect other homeowners’ views. He feels that the trees now look bad. Errol Levine (President, Los Nidos Homeowners Association) reported that the trees are Siberian elms and are located on community property. Several years ago the Los Nidos Board had received a complaint from the then owners of 545 Los Nidos Drive (Bob and Cynthia Josephs) that the trees blocked their Jemez view. Two Los Nidos Board members (Bob Lockwood and Errol) visited the lot and confirmed the view impairment. The Board had discussed the matter five years ago and every subsequent year at their annual meetings. Robert Coates of Coates Tree Service had been consulted initially and recommended that the trees be reduced in height by 40-50% each year. The Board was cognizant of Section 6.18 of the amended CC&Rs of EP and wished to avoid being in violation of the Covenants. The Board had therefore decided to have the trees trimmed annually in the fall when they were losing their foliage. The Josephs’ view had been restored. The current owners of 545 Los Nidos (Chris and Elsie Gobey) had also requested that the trees be trimmed annually. The decision whether or not to trim the trees is reconsidered each year by the Board of Directors.
  - c. **Frank Bugg** (Los Altos): Frank Bugg emphasized to the Board that it should only consider overruling the ARB under very unusual circumstances. Otherwise, it would be emasculating the

ARB. Frank distributed color photographs of his view from Los Altos showing the trees below in their fall colors. He said that Los Altos homeowners would be upset by any attempts to cut back these attractive trees excessively. Frank recommended that nothing should be done to the trees without initial consultation with a certified arborist.

d. Joe Fertitta (Los Nidos). Mr. Fertitta believes that, if necessary, an independent arbitrator be hired to deal with tree/view complaints.

e. Bob Lockwood (Los Nidos): Bob Lockwood noted that the Schwartz's had agreed to trim their tree provided that they were not singled out. He indicated that on 10/12 two large cottonwood trees on private property on the Los Nidos side of Avenida Primera had undergone trimming. This had been done mainly with a view to maintaining the health and shape of the trees. Bob felt that now that these trees had been trimmed, the Schwartz's could be approached again since theirs would not be the only cottonwood tree in the area that would undergo pruning. John LeMaster pointed out that when L & L Development was developing Los Nidos he had requested ARB permission to remove the six cottonwoods on the south side of Los Nidos along Avenida Primera to facilitate construction. The EP ARB had, however, refused permission to remove the trees. Bob Lockwood and Rex Wilmore confirmed this.

f. Jim Kissock (Aspen Compound): Mr. Kissock indicated that he enjoys the view of trees outside adjacent houses. Some of these are trees complained about by Ginny Brewer. He believes that he is as much entitled to his preference as Ginny Brewer is entitled to her preference for a mountain view.

Board members then joined in the discussion. Mary Walta recommended that the President form a committee to investigate the possibility of revising section 6.18 of the EP CC&Rs. Bill Schiller agreed. She recognized that any change might require a referendum of homeowners. Pat Jackunas agreed with the need for a community referendum. Bill Schiller felt that an overwhelming majority of EP homeowners would be against widespread mutilation of neighborhood trees.

Errol Levine expressed concern about the penalty component of Section 6.18. This permits the ARB to hire a company to enter private property and cut back trees. He pointed out that there are many practical difficulties involved including:

- finding a licensed company to do the work after they are informed that they'll need to do so without the consent of the homeowner;
- the possibility that a homeowner might call the police;
- the possibility that tree trimmers might have to climb over fences or walls to reach an offending tree on a locked property;
- the possibility that the Board might be sued for trespass and damage to property.

He feels that the penalty portion of Section 6.18 should be avoided and suggested that filing a notice of Non-Compliance against offending homeowners would be a more acceptable solution. This procedure has been used successfully several times in EP in dealing with architectural violations.

Mary Walta recommended that Lee Warren and Jim Hays should report back to the Board regarding any progress achieved in dealing with the tree problem in their neighborhoods.

8. **Adjournment:** The meeting adjourned at 10:35 am.

Minutes prepared by Errol Levine (Secretary)

**EPCSA Board of Directors**  
**Meeting Minutes**

**November 10, 2009**

**Members Attending:** Michael Cross, Errol Levine, Rex Wilmore, Carol Seghers, John LeMaster, William Schiller and Virginia Brewer.

**Guest Present:** Frank Jackunas

The meeting was called to order at 8:03 am by Michael Cross.

1. **Approval of Minutes:** Upon motion by Ginny Brewer, seconded by Rex Wilmore, the minutes of the Board Meeting of 10/13/09 were approved by all as submitted.
2. **Recording of Proceedings:** Michael Cross reported that the proceedings of the meeting of 10/13/09 had been recorded using a borrowed device. The device had been used solely to assist the Secretary in preparing the minutes. There was some discussion about purchasing a recording device for future meetings. It was decided that a recorder would only be needed in exceptional circumstances in which case it could be borrowed. Only printed versions of the minutes will be retained for record purposes as has been the case in the past.
3. **Treasurer's Report:** Rex Wilmore reported that funds are available to carry us through until the end of the year. He noted that the ARB balance sheet contained four performance deposits. These need to be refunded to the homeowners involved after final ARB approval of their projects. He noted also that the ARB account has \$368.02 the source of which is unknown. John LeMaster moved and Carol Seghers seconded that this amount should be removed from the ARB account and transferred to the general operating fund. The motion was approved unanimously.
4. **Snow Removal:** The Board noted that we have a contract for snow removal with Advantage Asphalt and Seal Coating, LLC. The contract indicates that we may request plowing when total snow accumulation on Avenida Primera exceeds 2". Snow removal in neighborhood subdivisions may be performed when snow accumulations reach or exceed 4". The Board agreed that we should continue the current policy. Michael Cross reported that he consults a few people before making the decision as to whether to call out the Company. When a day is likely to be sunny following an overnight snowfall, it is generally assumed that the snow will melt and the Company is not called out.
5. **Grounds and Clubhouse Report:** Frank Jackunas presented his report (attached). The Board made the following decisions unanimously:
  - The racquetball court will **not** be repainted;
  - Where needed cushions in the pool area will be replaced or recovered from Wal-Mart or Home Depot stock in the spring (cost of about \$500);
  - Root damage to the tennis court surface is located in a non-playing area. This will be managed by removing small trees and roots at a cost of \$500 - \$600. The court will **not** be resurfaced or repainted;
  - The pool will be retiled in the spring at a cost of approximately \$5,000. The retiling comes with a two-year warranty. Lee-Sure Pools will probably be used for this work, but Frank will obtain an additional estimate. Proper preparation of the pool surface after tile removal is the key to a good outcome and this will be discussed with the Company;



- Chamisas will be trimmed back this fall along **both** sides of Avenida Primera so that they do not impinge on either the sidewalk or the street. The anticipated cost is \$1,150-\$1,250. There is an 8' City easement on both sides of Avenida Primera;
- The Christmas lights at the Clubhouse will be installed by Richard Romero on or about December 1. He charges \$20-\$25/hour;
- A stucco replacement or repair will eventually be needed at the Clubhouse. John LeMaster and Michael Cross will work with a couple of companies to determine what type of work is actually needed. Michael will report back to the Board at a future meeting.

6. **ARB Issues:**

- Scott Sullivan (776 Altamira) had written to Michael Cross regarding white roofs in EP (letter attached). These are an eyesore because of the varying elevations in EP. He thinks that the ARB should require the involved roofs to be tinted beige or tan. The Architectural Guidelines forbid white roofs in EP. Two white roofs are visible from homes in Altamira, one in Los Nidos and the other in Altamira. Carol Seghers had attempted to contact the homeowner in Altamira, but she believes that the homeowner may be deceased. She will try to contact the relatives of the homeowner. If she fails to reach them, the Board agreed that a notice of Non-Compliance should be filed against the property. It might also be necessary to file a lien against the property to cover annual dues and legal costs. The Board also requested that Carol contact the EP ARB about white roofs in other neighborhoods that might be a problem for Altamira residents.
- The Board noted that homeowners performing interior or exterior projects on their homes are responsible for daily cleanups at the work site and for a final cleanup at the end of the project. They are also responsible for repairing any damages to common areas caused by their workmen.
- The Board agreed that as indicated by the EP Architectural guidelines (Appendix II – Neighbor Notification) neighbors adjacent to or facing proposed exterior projects must be notified about these by the applying homeowner prior to any ARB application being submitted. Every effort should be made by the applying homeowner to address the concerns of neighbors. Also, affected neighbors must be notified when a project will be reviewed at an EP ARB meeting so that they can attend the meeting and express concerns that they might have about the proposed project.
- A rooftop construction project is in progress at the home of Frances and Jerry Freeman (421 Los Altos Way). An ARB application for this project has not been submitted. The nature of the project is not currently fully understood. A rooftop wine deck was installed during the initial construction of the home. It appears that a rooftop frame structure with a door aperture is now being added to the wine deck. Charles Bonney was the original builder of the Freeman's home and had been contacted. He is not, however, doing the work on the new project. When contacted, however, he indicated that he wanted to be of assistance and that he would ask the individuals doing the work to stop and they have done so. The rooftop structure may exceed the height requirements, but this is currently not known for certain. The Board therefore resolved that the ARB should send a letter to the Freemans and that a copy of the letter should be posted at their residence.
- The Board noted that since the tree/view issue had recently assumed such importance it would be necessary for the EP ARB to more carefully scrutinize future landscape applications for potentially tall trees such as Aspens that might eventually interfere with views. If future view obstruction is likely the ARB should probably disallow the trees.

7. **Old Business:**

- a. ***Proxies for Board Meetings:*** Michael Cross reported that even though the Board had accepted proxies and proxy voting in the past, this would no longer be allowed for either the EP Board of Directors or for the EP ARB.
- b. ***Trees:*** Michael Cross reported that three homeowners along Avenida Primera had pruned their cottonwood trees. Others had been contacted and will prune their trees some time in the future. One cottonwood tree had been removed because it was leaning over the home. One property (Johnstone residence) has two cottonwood trees on its Avenida Primera side. Michael will be in contact with Jim Hays regarding the trimming of these trees. Michael acknowledged the help of Bob Lockwood in obtaining a solution to this problem. Lee Warren, Ginny Brewer and the Aspen Compound Homeowners Association are working on a solution to the problem of the Aspen Compound trees. Some of the homeowners involved are out of town and will review the matter on their return. Michael Cross read a letter to the Board from Lee Warren about progress in this matter
- c. ***Tree Committee:*** A Committee consisting of Mary Walta and Bill Schiller met on November 3, 2009 to discuss tree issues and Section 6.18 of the EP CC&Rs. Their report is attached. They plan to contact each neighborhood association and to request an invitation to attend their Board meetings to discuss tree/view issues. Errol Levine recommended that the Committee consider in addition a mass e-mailing of EP homeowners to bring them up to date about tree/view issues. The Committee believes that Section 6.18 should be amended. Some Board members felt that if this is done, it would be a good opportunity to update and amend other sections of the EP CC&Rs.
- d. ***Clubhouse Use:*** Some concern was expressed about the use of the Clubhouse and its facilities by external groups. The Board agreed that this was only permissible if a meeting were sponsored by an EP homeowner who was actually present for the meeting. A deposit should be required and deductions should be made from the deposit for any cleanups that are necessary after meetings. The sponsor of the group is responsible for ensuring that the clubhouse is properly cleaned up after each meeting.

8. **Pending Matters:**

- a) Concrete repairs on Avenida Primera (Board meeting 10/14/08)
- b) Transfer of a CD to another bank on maturation if needed (Board meeting, 10/14/08)

9. **Adjournment:** The meeting adjourned at 9:15 am.

**EPCSA Board of Directors**  
**Meeting Minutes**

**December 8, 2009**

**Members Attending:** Michael Cross, Errol Levine, Rex Wilmore, John LeMaster, William Schiller, Mary Walta and Virginia Brewer.

The meeting was called to order at 8:05 am by Michael Cross.

1. **Approval of Minutes:** Upon motion by Ginny Brewer, seconded by Rex Wilmore, the minutes of the Board Meeting of 11/10/09 were approved by all as submitted.
2. **Treasurer's Report:** Rex Wilmore reported that our current expenditures are well behind the budgeted amount for 2009 (report attached). Stucco repair or replacement at the Clubhouse was discussed. John LeMaster recommended getting someone from a stucco supply company to examine the Clubhouse and make recommendations as to what should be done. The matter will be deferred until the spring. The Board agreed that the dues for 2010 should remain at \$360. Rex Wilmore will send out invoices by regular mail towards the end of 2009. The due date for payment will be February 15 and payments will be overdue and subject to late charges after March 15, 2010.
3. **Grounds and Clubhouse Report:** Frank Jackunas submitted a written report (see below).
4. **ARB Report:** Pat Jackunas submitted a written report (see below). The Board noted that the unapproved construction of the rooftop structure at the Freeman residence in Los Altos has ceased. The Freemans have promised to submit an application for their project to the Los Altos ARB. The Board decided to pend further action on the white roof in Altamira (Benoit residence) until the spring.
5. **Tree Update:** Michael Cross reported that he had written to each homeowner in Los Nidos and Kachina Hills thanking them for trimming or removing their cottonwood trees. He is still in negotiation with the Johnstones regarding trimming of their two cottonwood trees. The cottonwood trees at the Clubhouse have been trimmed or topped in accordance with a recommendation from Robert Coates (letter attached). The Tree Committee consisting of Mary Walta and Bill Schiller will try to attend Board meetings of each of the neighborhood subdivisions to determine the opinions of the neighborhoods regarding management of tree issues. This will be done during 2010.
6. **Pending Matters:**
  - a) Concrete repairs on Avenida Primera (Board meeting 10/14/08)
7. **Adjournment:** The meeting adjourned at 8:35 am.

**Clubhouse Manager's Report**

**Tuesday, December 8, 2009**

- KC Landscapes has trimmed back brush both sides of Avenida Primera
- Replacement holiday strings bought at Home Depot, installed by Richard Romero Wednesday, Nov. 18<sup>th</sup>. Timers set for 6:00 pm to 6:00 am.
- Richard swept area around pool and in tennis court as well.
- On Nov. 25<sup>th</sup>, per Mike's request, reset timers to 5:00 pm to 11:30 pm.

Frank Jackunas

**ARB Report**

- Letter sent to the Freeman's advising them to stop construction
- A call of apology from Mrs. Freeman was received by Pat and now the Los Altos ARB is reviewing their proposal
- I suggest that the board consider action on the home of Ann Benoit, 774 Altamira, since we have had no response to letters about the very white roof

Pat Jackunas