

2022 SJVLOA ANNUAL MEETING

July 3, 2022

The 2022 Annual meeting of the San Juan Vista Landowners Association was called to order at 9:43am by Brian Rogers, SJVLOA President. Brian Rogers thanked Carol and Dick Ames for hosting the meeting. Brian also gave a brief update on upcoming weed control as well as the on-site defibrillator.. Brian reminded all the Association owns a backpack weed sprayer (no chemicals are provided) and a weed eater is available. Brian reminded folks to Respect Private Property, only roads are common area.. 2021 SJVLOA Alternative Meeting Minutes were presented by Secretary Park Brady and approved. Secretary Park Brady gave a brief update and reminded everyone that it is not just the Boards responsibility to police problems like speeding, trespassing, and access to San Juan vista by those who drive in just to see what is here. Everyone should politely help by watching out as well. Any owner has the right to say hello and ask.

Treasurer Jeff Wetteland gave a Report on the financial situation and that there was approximately \$42,000 in the Bank. This was followed by a discussion about the increased cost by vendors to the Association. It was decided and approved by the members present to increase the dues to \$400 annually to cover the increased costs

Brian mentioned that Ted Moews term on the Board was up and that Ted was willing to serve another term. No other person was nominated and Ted was elected unanimously.

At this year's Annual meeting there was a long discussion of options for fire protection and prescribed burns. Justin Jager led this discussion and later sent out an E mail which is at the bottom of these minutes.

Brian then asked Park Brady to present regarding between his and John Pryor's access to the Wilderness. Park Brady handed out a sheet that started with the verbiage that they had received from the Associations attorney. That is copied below

Below and underlined is the wording from the Association's Attorney letter sent to John and Park.

The Board members believe an agreement was reached in 2021 to acknowledge an irrevocable and perpetual access easement of 60' width, with no requirements for a landowner to be present, for pedestrian, equestrian, pack animals, and leashed pets. The Board agreed that no vehicles would be allowed, and that the community would stress acceptable, courteous behavior on the path, no commercial usage, SJVLOA weed

control, trail maintenance, use of the path is at your own risk (no Lot 27/Lot 29/SJVLOA Liability). They believe that such an agreement is in the best interests of the SJV community, and do not agree to the much more limited proposal offered. They suggest that this be further discussed at the annual meeting

John and Park disagreed with the statement that they had agreed to an irrevocable and perpetual access Easement in 2021 and again as they had in the 2021 annual meeting said that it was wrong for owners to be able to without restriction send people up to use the access which is special and should be protected. Again as they had in 2021 John and Park both stated that they did not intend to stop access. They stated that they were willing to execute and easement as long as it had reasonable restrictions and the parking restrictions remained in place.

Park and John agreed to accept the above with two changes. They wanted the 60 foot wide access to be limited to a 25ft wide path in it's present location and they wanted Guests of Owners and Owners family to have access as long as an owner/family of owner are present in San Juan Vista. Guests would also include those staying overnight in San Juan Vista without Family/Owner presence. Access would not be for short-term paying guests during hunting season.

John Pryor and Park Brady reminded everyone that this was the same issue that they had presented at the 2021 annual meeting. That issue was people who were not owners using the Overlook access and that owners were sending friends up to use the access even though they were not staying in San Juan Vista. Mr. Brady (as he had done last year) equated this to someone in a Condominium community offering access HOA to pool, fitness, and other amenities to others who were not staying on property and felt the wilderness access is something that is very special, limited, and provides value to all of the SJV properties. Park Brady and John Pryor felt that Owners should not be giving access to friends, contractors, etc. when owners where not present in San Juan Vista. There was considerable discussion including one owner who vociferously did not want to change anything. One owner asked Justin Jager if he would consider the same thing for the US Forest Service easement on his property. Justin reminded and reiterated to the group that the two easements are not the same and because of the trespassing and vandalism on his property by residents of SJV he was not considering allowing access at this time. Ted Moews reminded everyone that when he bought his property in 1974 the developers told him that the lined areas on the Plat were for access to the Forest.

Dick Ames made the following motion:

Given the progress made between the SJVLOA and the owners of lots 27 and 29, that a de facto 60 foot easement is acknowledged, and that the lot 27 and 29 owners and the LOA now wish to establish a new formal easement in perpetuity reflecting, among other things, a 25 foot wide path within the 60 foot easement and these additional terms discussed at the meeting: no requirement for a landowner to be present during use of the easement, said easement to be used by landowners, their families and guests

for purposes of pedestrian, equestrian, pack animals and restrained pets access to and from the USNF , no vehicles will be allowed, courteous behavior by all shall be expected on the path, no commercial usage, SJVLOA responsible for weed control and trail maintenance, use of the path is at the travelers own risk (no Lot 27/Lot 29/SJVLOA liability), allowed guests shall include those staying the day and/or overnight in San Juan Vista and renters without family/owner presence, access to the path will not be allowed for short term paying renters during hunting seasons when hunting parking permits are required; I now, therefore, make a motion for the board of SJVLOA to direct their law firm, Hockersmith and Whitmore, to draft a standard easement, with the owners of lot 27 and 29 as the grantors and the SJVLOA and its owners as grantees, including among other terms, those referenced above, and excluding provisions for default and enforcement, further, that said draft shall be reviewed by the Board and the owners of lots 27 and 29, and when once agreed, the finalized easement shall be submitted to all of the SJV landowners for ratification by an up or down vote, and that once the final draft is approved the easement document shall be forwarded to the clerk of San Miguel County for recording.

Brian Rogers asked if there were any other issues and Justin Jager said he wanted to address the US Forest Service easement on his property.

Justin provided the group with the legal background of the US Forest Service Zadra easement, which is the easement depicted on the plat map above Forest Lane. He provided a handout and the HOA attorney's letter addressing the easement.

Justin mentioned he has had two significant trespassing and vandalism issues on his property over the past couple years;

First: A SJV resident enter his property and cut down several old growth Doug Fir trees
Second: He found out, through game cameras on his property, that Park Brady with group of SJV residents had trespassed on his property, with chainsaws, and were cutting trees and attempting to make a trail through his property.

Justin contacted Mr, Brady and told him they were trespassing and to stay off his property. He also contacted the Board to let them know what happened. Because Mr Brady was insistent in his position that he had the right to be on his property with chainsaws, the board at the time, Bill Young, concluded the HOA needed to get a legal opinion on it and contacted the HOAs lawyer.

After last year's meeting and the trespassing and vandalism that occurred on his property, Justin researched Colorado easement law, specifically looking at the US Forest Service Zadra Easement, and hired an easement attorney to figure out, legally, what's going on. Justin worked with Alpine title, who provided out title insurance when we bought the property, San Miguel county to locate all legal documents for SJV and an easement attorney to put all the pieces together.

Justin provided the following legal facts of the USFS Zadra easement:

Our founding Protective Covenants for SJV state in #7 (Book 349 Page 696):

"All easements within the subdivision for utilities, roads and other purposes shall exist only to the extent that the same are noted on the plat hereinbefore mentioned, or later created by recorded conveyance."

The plat referenced "hereinbefore" clearly shows two easements on Forest Lane:

- 1) Bk 341 Pg 659 is the Forest Service easement (Zadra)
- 2) Bk 337 Pg 550 is the easement for access to the ditch for the ranch

There is nothing else noted on the plat.

Working with San Miguel County and Alpine Title, there are no other easements, plat maps, or any other legal records that document, note or show any other easements or legal uses from Forest Lane to the forest.

ZADRA EASEMENT -

The Zadra Easement explicitly states that it is granted to the United States and its acquiring agency, the U.S. Forest Service for administrative purposes only. It is not for any other entity or the general public.

San Juan Vista's lawyer, Mr Hockersmith, at the request of Bill Young, reviewed the Zadra Easement, Plat Map and other documents and confirmed through a legal memorandum that the Zadra Easement is solely intended for the use of the US Forest Service and not SJV residents or others. Justin provided that Memorandum to the HOA.

Justin said that the memorandum, and the legal conclusions in it, were also confirmed by Alpine Title company as well as the easement attorney he hired.

Justin, at the council of his attorney, then provided his position on the easement:

- Since purchasing our property in 2009 I have had 'no-trespassing' signs on all parts of my property, including the US Forest Service Zadra easement area, and there were 'no-trespassing' signs posted on the property before we purchased it.
- No one has asked me to utilize any part of my property to access the forest or commented/questioned the no-trespassing signs.
- The signs are pretty specific stating that there is no trespassing and no access to the forest through my property
- I haven't granted access to my property to anyone at anytime

- 1) The US Forest Service Zadra easement conveys the only legal use of the easement off Forest Lane to the forest

- 2) The US Forest Service Zadra easement is strictly for the use of the US Forest Service for administrative purposes only
- 3) Anyone else crossing the easement or any other part of my property without permission is trespassing
- 4) Any further trespassing of any kind, or vandalism of my property will be handled working directly with the San Miguel County Sheriff who Justin has been working with on this matter.

The meeting was adjourned at Noon.

E Mail from Justin Jager

SJV Residents,

Thanks for attending the annual meeting! As promised, here are the documents I talked about relating to wildland fire.

The first is San Miguel Counties map with known structures in SJV. If your structure is not on this map and you would like it be, contact Heather Widlund with the county: heatherw@sanmiguelcountyco.gov

The second attachment is the Trout Lake Community Wildfire Risk Assessment that was completed in 2018 with the West Region Wildfire Council. If we as a community are interested in completing something like this, I am happy to spearhead the effort. Look it over and if you think it would be value-added to our community let me know, if not, that's fine too!

As a reminder the website for the West Region Wildfire Council for individual grants is:

<https://cowildfire.org/>

The website for an NRCS grant is:

<https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/cig/>

If you have any question on anything wildfire related, I'd be happy to talk with you and/or look at your property with you and determine a course of action.

Thanks!

Justin Jager

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