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SUPERIOR COURT
THURSTON COUNTY, WA

2018 MAR 22 PM 3:17

Linda Myhre Enlow
Thurston County Clerk

1 **EXPEDITE** (if filing within 5 court days of hearing)

2 Hearing is set:

3 Date: April 20, 2018
4 Time: 9:00 a.m.
5 Judge/Calendar: The Honorable John C. Skinder

6 No hearing is set

7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF THURSTON

9 THERESA J. LOWE, a single woman;
10 LOREN J. BOSSHARD and DONNA A.
11 BOSSHARD, husband and wife;
12 BURLEIGH M. CUBERT and CAROLYN
13 CUBERT, husband and wife,

14 Plaintiffs,

15 v.

16 FOXHALL COMMUNITY
17 ASSOCIATION, a nonprofit corporation,

18 Defendant.

NO. 17-2-00812-34

DECLARATION OF THERESA J.
LOWE IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT

17-2-00812-34
DCLR 64
Declaration Affidavit
2801649



19 I, Theresa J. Lowe, declare as follows:

20 1. I am over the age of eighteen years old, competent to testify, and make this
21 declaration based on my personal knowledge.

22 2. I have lived in the Foxhall community for many years. I am a member in good
23 standing of the Foxhall Community Association. I have served on the Association's Board of
24 Directors and am familiar with the covenants and bylaws.

25 3. I am intimately familiar with the Foxhall private trails as I have used them and
26 live near them. Everyone in the community lives near the trails, because they meander through
27 the community.

DECLARATION OF THERESA J. LOWE - 1

Bean, Gentry, Wheeler & Peternell, PLLC
910 Lakeridge Way SW
Olympia, WA 98502
(360) 357-2852
Fax (360) 786-6943

1 4. Attached hereto as Exhibit A is a true and correct copy of a drawing/map
2 depicting the Foxhall trails.

3 5. The Foxhall Community Association owns and maintains the Foxhall trails.
4 These trails are for private use by Foxhall residents and accompanied guests. Commercial use
5 of the trails is not allowed by the Association's governing documents, which is a fact the
6 original developers/incorporators of Foxhall have stated as shown in other declarations that
7 have been filed with the Court. I have discovered other documents supporting this fact, which
8 may not have been previously filed with the Court. These documents include recorded
9 documents that pertain to Foxhall Division IV. The land associated with Foxhall Division IV
10 was, pursuant to the recorded documents, not intended for commercial use. This is similar to
11 the language in Foxhall's covenants, which states lots in Foxhall are for residential use only.

12 6. Attached hereto as Exhibits B1 and B2 are true and correct copies of the recorded
13 documents relating to Foxhall Division IV. These documents are a matter of public record.
14 They were recorded under Thurston County Auditor's File Nos. 8411020113 and 8709030122
15 respectively.

16 7. Other evidence supporting the fact that Foxhall's trails are not for public and/or
17 commercial use, and are only for use by residents and accompanied guests, include information
18 contained in past Association newsletters, signs posted along Association trails, and acts taken
19 by past Boards attempting to stop nonresidents from using the trails if unaccompanied by a
20 resident/member.

21 8. Attached hereto as Exhibit C is a true and correct copy of an old Foxhall
22 Newsletter from April 2001. This newsletter indicates nonresidents seeking to use the private
23 Foxhall trails is an issue that has been addressed in the past. And in the past, the
24 members/residents of Foxhall did not want nonresidents to use the trails. Member votes in the
25 past against nonresident use of the trails is similar to the vote that was taken in November
26 2015—i.e., only about 15% of the residents are in favor of nonresident use of Foxhall trails.

1 9. Attached hereto as Exhibit D is a true and correct copy of a display I made
2 showing various signs that have been displayed along Foxhall's trails in the past. I personally
3 know that each of the signs has been up in the past. The signs reflect that trail use was for
4 residents only and their accompanied guests.

5 10. Attached hereto as Exhibit E is a true and correct copy of a letter that was sent by
6 the Board in 2013 to members Gary and Judy Johnston. This letter reiterated that the trails were
7 for residents and accompanied guests only, and not for nonresident boarders who were not
8 riding the trails with an Association member.

9 11. Some residents in Foxhall board horses for nonresidents, for a fee. And some of
10 the residents who charge to board horses allow their boarders to ride on Foxhall's private trails
11 without being accompanied by a resident. This causes more traffic on the trails, which causes
12 more damage and maintenance needs on the trails. This also causes issues in the community
13 because the trails wind through the community and boarders have no place to park while they
14 ride the trails. The issue of nonresidents using the trail with the apparent permission of
15 members, but not accompanied by members came to a head in 2015. In November 2015, a
16 special meeting of the members was held to vote on a proposed bylaw amendment that would
17 clarify the prohibition contained in the covenants against commercial use of the trail by
18 nonresidents.

19 12. Attached hereto as Exhibit F is a true and correct copy of the minutes from the
20 November 2015 special meeting. Attachments referenced in the meeting minutes are also
21 included, such as the meeting sign-in sheet and official vote tally.

22 13. As pursuant to the meeting sign-in sheet, Foxhall Community Association had
23 122 members at the time of the November 2015 bylaw amendment vote. Forty-two members
24 attended the meeting in person.

1 14. The official vote tally reflects that the bylaw amendment passed by a vote of 78-
2 18. In other words, 63.9% of the membership was for the bylaw amendment, 21.3% did not
3 vote, and 14.8% voted against the bylaw amendment.

4 15. Comparing the meeting sign-in sheet with the official vote tally further reflects
5 that nineteen members who were physically present at the meeting chose to let their proxy votes
6 stand as opposed to voting “in-attendance”. It was made clear at the meeting that proxy votes
7 would count so there was no reason for people in attendance with proxies who voted in favor of
8 the bylaw to withdraw their proxies. Had all forty-two members in-attendance voted as being
9 in-attendance, the bylaw amendment would have passed among those physically in attendance
10 by a vote of 24-18.

11 16. By the numbers, fifty-four of the members voting in favor of the Bylaw did not
12 physically attend the special meeting. This vote demonstrates the reason why allowing proxies
13 is important—less than 15% of the population must not be allowed to impose their will on the
14 community. Foxhall, like other neighborhoods, consists of disabled people, people with work
15 commitments, people who take vacations, people who take their children to sports/music/dance
16 practice, people in the military, and people who would simply rather sign a proxy form versus
17 attending a long association meeting—all of these groups of people must have a say in Bylaw
18 amendments. Requiring physical presence at an association meeting to vote on bylaw
19 amendments will preclude many members from being able to vote.

20 17. Unfortunately, a few members of the Board decided several months after the
21 November 2015 bylaw amendment passed that they were going to ignore proxy votes on the
22 bylaw amendment, including the proxy votes cast by members who were physically present,
23 and refuse to recognize the bylaw amendment.

24 18. It is absurd to read the Bylaws in a way that would allow a member to exercise his
25 or her right to vote by proxy except for proposed bylaw amendments. The word “present” in
26 the context of a bylaw amendment vote is not limited to physical presence. This point was

1 demonstrated by the FCA when it amended the bylaws in March 2017. For example, in March
2 2017 the FCA adopted a bylaw amendment to Section IV.4, which changed the language
3 regarding removal of a director from “vote of the voting power in the Association in person or
4 by proxy...” to “vote of the voting power in the Association **present**, in person or by proxy...”
5 The addition of the word “present” where the term “in person” already existed signifies that
6 “present” does not only mean “in person”. The construction of this sentence, which is
7 consistent with statute, indicates the word “present” can mean either “in person” or “by proxy”.

8 19. Attached hereto as Exhibit G is a true and correct copy of the March 2017
9 meeting agenda.

10 20. Additionally, the FCA adopted a bylaw amendment in March 2017 that limits the
11 scope of proxies in that they are now, according to the purported bylaw amendment, only
12 allowed if the proxy specifically describes the member’s intent regarding a specific subject.
13 These “Limited Proxy Form[s]” can be downloaded from the FCA website and appear to allow
14 a limited proxy for purposes of bylaw amendment voting.

15 21. Attached hereto as Exhibit H is a true and correct copy of a Limited Proxy Form
16 that was downloaded from the Association’s website.

17 22. The Plaintiffs in this case have not benefitted from public use of Foxhall’s private
18 trails. There is no benefit to having strangers ride near your house on horses and/or to have
19 increased traffic on private trails you pay a portion of the maintenance. Further, Plaintiffs and
20 many others who voted for the November 2015 Bylaw amendment are concerned about
21 nonresidents using the trails. One issue of concern is that allowing public use of Foxhall’s trails
22 will preclude law enforcement from being able to distinguish trespassers from paying
23 customers. Another issue of concern is the issue of liability. As expressed in previously filed
24 declarations, there is no evidence Foxhall and/or the FCA is insured for potential claims made
25 by nonresident, business invitees. It is the FCA that owns the trails. As the landowner, the
26 FCA would likely get sued if a rider is injured on the trails.

27 DECLARATION OF THERESA J. LOWE - 5

Bean, Gentry, Wheeler & Peternell, PLLC
910 Lakeridge Way SW
Olympia, WA 98502
(360) 357-2852
Fax (360) 786-6943

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23. Also, the Association's cash reserves have decreased significantly ever since the Board decided to ignore the November 2015 Bylaw amendment. Expanding the use of trails to business invitees creates the need for more maintenance and safety measures. These costs are passed on to all Foxhall members, not just the members who attempt to run for profit businesses using community amenities.

24. Attached as Exhibit I is a true and correct copy of the Cash Balance Graph depicting the trend of Association funds.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 22nd day of March, 2018, at Olympia, Washington.


Theresa J. Lowe

PROOF OF SERVICE

I certify that I caused to be served a copy of the foregoing document on the following parties of record on the date below as follows:

Steve Goldstein
Shawna M. Lydon
Betts, Patterson Mines, P.S.
One Convention Place
Suite 1400
701 Pike Street
Seattle, WA 98101-3927
Email: sgoldstein@bpmlaw.com
slydon@bpmlaw.com

Robert D. Wilson-Hoss
Hoss & Wilson-Hoss, LLP
236 West Birch Street
Shelton, WA 98584
Email: rob@hctc.com

US Mail Postage Prepaid
 Electronic transmission (email)

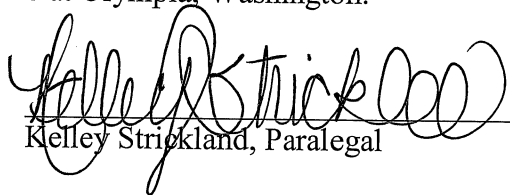
US Mail Postage Prepaid
 Electronic transmission (email)

Loren John Bosshard
Donna Anne Bosshard
5928 Foxhall Court NE
Olympia, WA 98516

US Mail Postage Prepaid

I certify under penalty of perjury under the laws of the state of Washington and the United States of America that the foregoing is true and correct.

DATED this 22 day of March, 2018 at Olympia, Washington.



Kelley Strickland, Paralegal

EXHIBIT A

Foxhall Trails

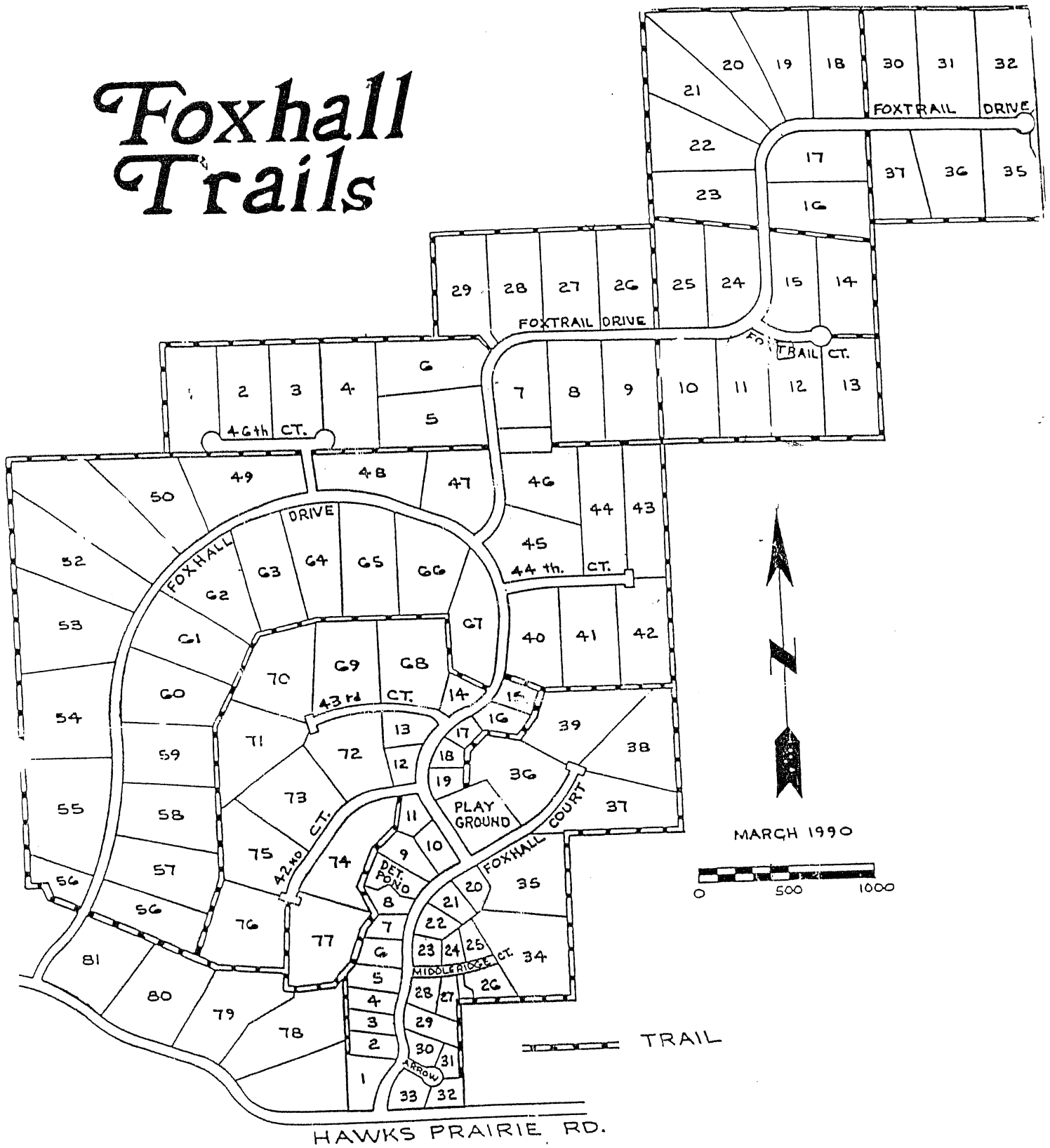


EXHIBIT B1

4

fh.

5⁰⁰
26

THURSTON COUNTY
OLYMPIA, WASH.

8411020113

Nov 2 4 00 PM '84

RECORDED BY
SAM S. REED, CLERK

AGREEMENT

DEPUTY

8411020113

This Agreement is made and executed this 26th day of October, 1984, by and between VIRGIL L. ADAMS, hereinafter called Adams, and OLYMPIA SAND AND GRAVEL CO., a corporation, hereinafter called Olympia, WITNESSETH:

WHEREAS, Olympia is the owner of the following described real estate situate in Thurston County, State of Washington, to-wit:

The NE¹/₄ of the SW¹/₄ of Section 27 Twp. 19N Range 1, W.W.M.,

and Adams is the developer of Foxhall Division 2 according to the plat thereof recorded under Thurston County Auditor's File Number 8210260083, (hereinafter called Foxhall), and Olympia wishes to acquire access to its property over and across streets in Foxhall. Now, Therefore, it is agreed between the parties as follows:

1. Adams will, when Olympia's property is subdivided, provide access to Olympia's property over and across the existing roadways in Foxhall, provided however that Olympia's property will not be used for commercial purposes and will not be subdivided into tracts less than five (5) acres in size, and provided further that when Olympia's land is subdivided, Olympia will provide for and deed to Foxhall Community Association to be held as common property, a bridle trail around the perimeter of its property. It will subject its property to the protective covenants applicable to the plat of Foxhall and any amendments thereto. Said covenants are now recorded under Thurston County Auditor's File Number 8210260083. The owners of said tracts will likewise be required to become members of the Foxhall Community Association.

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6411020113

2. The construction of any roadway outside of Foxhall necessary to connect Olympia's property to the streets in Foxhall, shall be at the expense of Olympia.

OLYMPIA SAND AND GRAVEL CO.,

By  (SEAL)

 (SEAL)
Virgil L. Adams

EXHIBIT B2

THURSTON COUNTY
OLYMPIA, WA
05/03/87 2:35 PM
REQUEST OF: ADAMS, VI
Saa S. Reed, AUDITOR
BY: CARRIE, DEPUTY
\$12.00 PRCOV

4

PROTECTIVE COVENANTS APPLICABLE TO AND FOR
RECORDING AS AGAINST FOXHALL DIVISION IV,
ACCORDING TO THE PLAT THEREOF RECORDED IN THE
OFFICE OF THE AUDITOR OF THURSTON COUNTY,
IN VOLUME 3 OF ~~PLATS~~ ^{Large Lot} AT PAGE 166

WHEREAS, the undersigned have subdivided the following
described real estate situate in Thurston County, State of Washing-
ton, to-wit:

The Northeast Quarter of the Southwest Quarter
of Section 27, Township 19 North, Range 1 West,
W.M.

and the plat thereof is recorded in the office of the Thurston Audi-
tor in Volume 3 of ^{Large Lot} ~~Plats~~ at page 166, and is designated
as the Plat of Foxhall Division IV, and

WHEREAS, the undersigned are the successors of the Olympia
Sand and Gravel Co., a corporation, which, by an instrument dated
October 26, 1984 and recorded in the office of the Thurston County
Auditor under File No. 8411020113, agreed that when the above prop-
erty was subdivided, it would be subjected to the same protective
covenants applicable to Foxhall Divisions I, II, and III, and

WHEREAS, the Protective Covenants applicable to Foxhall
Divisions I, II, and III are set out in an instrument recorded under
Thurston County Auditor's File No. 8210260083, as amended by instru-
ments recorded under Thurston County Auditor's File Nos. 8411060081,
8411060082, and 8411060083, and that a copy of said Covenants as
amended is attached hereto, marked "Exhibit A", and by this reference
made a part hereof, and

WHEREAS, the undersigned intend that the restrictions and
covenants contained in "Exhibit A" shall apply to all of the prop-
erty in Foxhall Division IV,

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File No: 8789838122

NOW, THEREFORE, the undersigned do hereby covenant and agree for themselves and their successors and assigns:

1. To keep all of the covenants set out in "Exhibit A" attached hereto and which are hereby made applicable to Foxhall Division IV. All property in said Foxhall Division IV shall be owned, held, used, occupied, and developed in accordance therewith.

2. The Foxhall Community Association referred to in "Exhibit A" is a corporation organized under the laws of the State of Washington, and said corporation has by a resolution adopted October 30, 1984 agreed that the owners of land in Foxhall Division IV may be members of said corporation and subject to the provisions of its Articles of Incorporation and By-Laws and entitled to all rights and privileges of its members and subject to all of the duties and obligations as members.

3. Foxhall Community Association will acquire title to the trail - Tract M - in Foxhall Division IV and will hold title to the same subject to the provisions of these covenants and the Articles of Incorporation and By-Laws of said corporation.

4. All roads in Foxhall Division IV are County roads, and there will be no assessments in Foxhall Division IV for road maintenance.

5. In "Exhibit A" where there are standards and requirements applicable to the lots in Foxhall Division I that are different than those applicable to Foxhall Division II, the requirements and standards applicable to Foxhall Division II shall apply to the lots in Foxhall Division IV.

DATED this 3rd day of Sept, 1987.

Michael G. Willie
Michael G. Willie

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File No: 8709030122

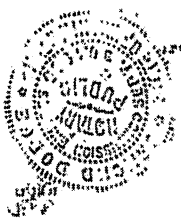
Janet E. Hill
 Janet E. Hill
Barbara A. Willie
 Barbara A. Willie
Samara L. Lockhart
 Samara L. Lockhart

STATE OF WASHINGTON }
 County of Thurston } ss.

On this day personally appeared before me Michael G. Willie, Janet E. Hill, Barbara A. Willie, and Samara L. Lockhart, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 3rd day of September, 1987.

Michael G. Willie
 Notary Public in and for the State of
 Washington, residing at Olympia therein.
 Shelton



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 File No: 8709030122



EXHIBIT C

Foxhallian

April 2001

**Annual Meeting of the Community Association Monday
April 30th. South Bay Elementary School 7 p.m. – 9 p.m.**

Whats in this Newsletter

Most of this newsletter provides information about the non-resident horseback rider proposal. If you fall on either side of this issue we recommend you read the comments of those that have an opposing view. Nearly half the residents of Foxhall have expressed an opinion on this issue. Thank you!

*Acte
in
make back*

Agenda - Annual Meeting of the Members of the Association	Page 2
The Proposed Budget, Discussions on the Budget may...	Page 2
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<u>THE PROPOSED BUDGET</u>	Page 3
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Horseback Rider Policy Proposal Discussion and <i>ERRATA</i>	Pages 4 & 5
Comments not in favor of the Rutter's Proposal	Pages 6 & 7
<i>..if some hurts themselves on the Association property... can I be sued?</i>	Page 7
Comments Supporting the Rutter's Proposal	Page 8
Comments - Foxhall's relationship with the Equestrian Center and the trail use proposal	Pages 9 & 10
Other issues	Page 11

WHEN CAN I HELP???

Saturday, May 5th, 10 a.m.

Meet at playground #1 (the one with the big toy & swings). Bring a rake. Help work:

1. Clearing rocks and reseeded the trail running North/South in Div. 2 and next to the Equestrian Center – trail was damaged by unsolicited bulldozing.
2. Spreading topsoil to fill holes and ruts in playground #1.

AGENDA
ANNUAL MEETING OF THE MEMBERS

Foxhall Community Association

South Bay Elementary School

April 30, 2001

7 p.m. – 9p.m.

1. **CALL TO ORDER** (Introductions, record Directors and Members present)
2. **READ MINUTES OF THE LAST GENERAL MEMBERSHIP MEETING**
3. **TREASURER'S REPORT**
4. **ARCHITECTURAL COMMITTEE REPORT**
5. **TRAIL COMMITTEE REPORT**
6. **PLAYGROUND COMMITTEE REPORT**
7. **OLD BUSINESS:**
 - Review Proposed Annual Budget – Approve Budget.
 - Act on items that have been posted for review by members from previous meetings.
 - Ask for comments from members present on things we are to act on.
8. **NEW BUSINESS**
 - Choose a date for the Annual Members Picnic – Summer Meeting
 - Bring up and discuss new items and indicate our position, if we have one.
 - Ask members if they have any new items.
9. **ADJOURN MEETING** (School requires we leave by 9 p.m.)

THE PROPOSED BUDGET

The discussions on Budget issues may include:

- Update and revise the 5 year plan – members have recommended we consider covering the basketball court with a roof/pavilion; consider tennis court construction, and volleyball court construction.
- Establish a priority for Capital Improvements
- Establish a priority for trail improvement and maintenance.
- Consider new lines/expenses in the Budget for Newsletter & Architectural Committee
- Review cost of Foxhall's Operation & Maintenance

INSURANCE REVIEW COMMITTEE

The President has asked the Secretary to Chair a committee to conduct a comprehensive review of Foxhall's insurance policies. An invitation has been extended to Larry Rutter for him or a member of his *PROPOSAL* group to participate. Any members that have an insurance background, and/or a strong interest in this issue and would like to contribute are encouraged to contact Mike McGee, Secretary

THANK YOU !!!

To all those who have donated their time, materials, and equipment time to the maintenance and improvement of Foxhall properties... The list is incomplete, but donated equipment time includes Jesse Cox - clearing & grading trail, Steve Stentz - drilling fence holes, Keith Long - many times over the years...

Foxhall Community Association
Treasurer: Bob Pendle
FY 2000/2001 Budget

<u>REVENUE</u>	<u>99/00 Apprvd.</u>	<u>99/00 Actual</u>	<u>00/01 Proposed</u>
Balance Forward	12,941.80	8,519.17	11,846.88
Association Dues	7,627.33	11,042.46	12,800.00
Interest Income	185.00	198.56	400.00
TOTAL REVENUE	20,754.13	19,760.19	25,046.88
 <u>EXPENSES</u>			
<i>Administrative</i>			
Office Supplies	350.00	122.10	400.00
Newsletter	0.00	0.00	600.00
Meeting Costs	50.00	84.05	100.00
Legal Fees	300.00	0.00	300.00
Insurance	350.00	308.00	350.00
Corp. Filing Fee	10.00	10.00	10.00
Forest Land Assmnt.	15.00	14.94	15.00
Property Taxes	15.00	20.22	25.00
Architectural Comm.	0.00	0.00	1,000.00
Subtotal	1090.00	559.31	2,800.00
 <i>Operations/Maint.</i>			
Entrance Maintenance	500.00	485.00	500.00
Entrance Water	200.00	295.69	350.00
Trails Maint./Mowing	2,200.00	2834.40	3,000.00
Playground Mowing	2,500.00	704.92	2,000.00
Playground Supplies	550.00	88.00	500.00
Detention Area Maint.	150.00	0	300.00
Annual Picnic	350.00	348.81	500.00
Subtotal	6,450.00	4,756.82	7,150.00
 <i>Capital Improvements</i>			
Trails, Gradng, Fencing	0.00	2,597.18	6,000.00
Playground #1	0.00	0.00	1,000.00
Playground #2	0.00	0.00	0.00
Detentn-StormRepair	0.00	0.00	0.00
Subtotal	0.00	2,597.18	7,000.00
 Miscellaneous	 0.00	 0.00	 0.00
 TOTAL EXPENSES	 7,540.00	 8,013.31	 16,950.00
Uncommittd funds	13,214.13	11,846.88	8,096.88
TOTAL BUDGET	20,754.13	19,760.19	25,046.88

Outstanding Dues \$870.54

From Rose Eilts, Chairperson of the Architectural Control Committee:

The Committee is composed of me, Ray Gluth and Callie Carroll. This group has been operating as the committee for about a year. In that year, we faced differing responses from homeowners regarding Committee matters. Those responses ranged from complete cooperation to extreme hostility. We had requests from homeowners ranging from "can't you do something" to "why don't you do something" to "please do something!" After about 6 months of being not very effective, we began to think of better ways to operate as a committee. We have had good feedback from residents and the Board in forming a framework of policies and procedures from which we can work. We are in the final review stage of those policies and procedures and will be getting them to you soon.

We took note that many new residents are moving into Foxhall without receiving complete information. In the future we will be distributing information packets to all Foxhall residents that will contain Foxhall Association information, Articles of Incorporation, Bylaws, Foxhall Covenants, Architectural Control Committee Policies and the Foxhall Trail Map. Then, as new residents move in, we will provide this information to them.

The Architectural Control Committee is composed of three members. In the event of the death, or resignation, of any member of the committee the remaining members shall have full authority to designate a successor. The Covenant gives the Architectural Control Committee considerable responsibility and authority. For example, Article II, F. Noxious and Offensive Activity: *No noxious or undesirable thing or noxious or undesirable use of the property in said additions, whatsoever, shall be permitted or maintained upon said building sites in said additions. If the Architectural Control Committee shall determine what trade, business, or use is undesirable or noxious, such determination shall be conclusive;* and in Article III, B (Architectural Control Committee) Procedure. . . *In exercising the discretionary powers granted to the committee, the committee shall, at all times, exercise its power in a reasonable manner and said committee is hereby empowered to adopt reasonable regulations as are necessary, with respect to the enforcement of those covenants. . .* The Covenants also provide for the recorded owners of a majority of the lots have the power to change the membership of the committee, or to take away from the committee, or restore to it any of the powers and duties as defined in the covenants.

HORSEBACK RIDER POLICY PROPOSAL DISCUSSION

ERRATTA & other comments on the March Foxhallian from Larry Rutter & Mike Zientek

There were errors in the March Foxhallian. Larry Rutter in an email on March 23 to Mike Zientek pointed out that *...this statement "The nonresident equestrian is a friend of the horse owners making the proposal at pages 2 & 3 of this Newsletter. The primary intention of this proposal is allow her and riders who board their horses at her facility to legally ride Foxhall trails and gain access on horseback from her residence to the Equestrian Center" is totally inaccurate and severely distorts the intention of our proposal. While it's true that Nancy is a friend of many of the members of our group making this proposal, to my knowledge no one in our group has expressed any intent to extend an invitation to any of her boarders.* The President accepts this statement as submitted recognizing that the proposal has developed over time. In discussions with the Rutters in January, prior to the trespassing complaint and the development of the policy proposal, both the President and the Rutters discussed finding a way to permit the nonresident equestrienne to use the trails unaccompanied.

In the same March 23 email, Larry Rutter points out *...that your statement "The obstacles at both sites appear to be created by one or more Foxhall residents in order to deter possible trespassers from gaining access to the Foxhall Trails." You may be right, that may be the person's intent, but it would be helpful to make the point that whoever is placing obstacles there to deter would-be trespassers is also interfering with the legitimate use of the trails by bona-fide members of Foxhall.*

And *... your paragraph that states "Of the 118 members sent the survey, 97 responded. Ninety-five (95) answered the question on Trail use; 15% said use by non-Foxhall residents would be okay, and 85% said they did not think it would be a good idea," I'd ask that you add something like the following: "To be fair, however, the proposal now being advocated by the horse owners group is not exactly throwing the trails*

open to everyone; it is very narrowly focused on invited, identifiable horseback riders. " Obviously, my interest is in distinguishing our proposal from the notion that we would throw the trails "wide open," which may have been on the minds of the survey respondents. This comment points out what the President sees as a major flaw with the Rutter's Horseback Rider Policy Proposal; **that you have to be a horse owner or horse keeper before you could have this privilege** and be permitted to extend an invitation to others for use the trails unaccompanied. Those members that do not keep horses (80% of the Associations members) would not have this privilege under this proposal. Yet, horse traffic has more impact on the trails than foot and dog traffic and most of our homeowners' dues traditionally go for trail and playground mowing, maintenance, insurance and property taxes. More horse owners than none horse owners have complained to the Board that the trails should be better maintained; and when volunteer's members have worked to maintain the trails, horse owner representation has been in the minority.

The President would like to point out that up until a year or so ago he had kept a horse in Foxhall for 11 years; and that it is possible he will keep horses in Foxhall again in the future.

Larry points out that the statement *While the Bylaws only require a 60% vote of the members present at a meeting called for that purpose, the proposed policy does not fit within the scope of the Bylaws and would be an abuse of the rules establishing the operation of the Community Association,* is in error, and it is. The President made this error and carries full responsibility for it [he needs help ;^)], he knows better, but it slipped by. This erroneous statement appears in the minutes of some *previous* General Membership Meetings, its origin is unknown; but the fact that it does exist in the records contributes to the confusion. The BYLAWS clearly state that they *....may be amended at any time by vote of a majority of the members of the corporation present at any meeting of the membership duly called for such purpose.*

Larry also pointed out the apparent double standard *...if the 80% rule wasn't followed to establish the current "policy," then 80% shouldn't be necessary to adopt our proposal.* The President finds this is actually a good argument as the records the board has been able to collect do not reflect when the actual vote to ban the use of motorized vehicles on the trails and require guests to be accompanied was accomplished; and these two Policies constitute our trail and playground use, or common area use policy. Yet this policy has stood the test of time. Records do reflect that this issue was addressed in general membership meetings, and with a *...survey* (from Foxhall Spring Meeting 1997 records) *administered 8/1/96 had the following question on use of the Foxhall trails: "4) Do you think it is a good idea to allow neighboring communities to use the Foxhall trails?" As of 10/20/96, there were 97/118 responses to the survey for a response rate of 82%. Of the 82% who responded, 95/97 (98%) answered question 4.*

- 15% said trail use by non-Foxhall residents would be okay,
- 85% did not think it would be a good idea.

Further analysis shows that of the 11 people who own horses (that I could think of--there are probably more), 8 didn't answer the question. Of the three remaining, 2 said "no" and one said "yes" with a fee to be paid. Furthermore, in response to the nonresident equestrian trespass, the nails on trails incident, and the March Foxhallian newsletter the President figures he has heard from nearly half of the Association's members. By better than four to one (>80%) their opinion has been to keep the existing accompanied only policy for nonresident trail and park use. Less than 20 percent of the members that have written, emailed, phoned, or in person spoke to Board members have been in favor of the Rutter's proposal. The current Foxhall Community Association Board has discussed this policy and concluded that the origin is in the Covenant, in that the Covenants provide that the trails *...shall be for the benefit of, and used by, the residents of Foxhall,* and that it is the greater community of members that are compromised if *...for the benefit of ...* is interpreted as being able to open up the common land areas for unaccompanied friends and/or family of a minority of members. While the policy appears reiterated in many of the Associations documents over time, it is non specific, and it is the intention of the current Board of Directors to formalize these policies into a written landuse policy. Since these policies derive from the Covenant, and have been interpreted that way for the past 17 years that the Community Association has managed Foxhall, the same requirement for an 80% vote of the membership required to change the convents is required to change the existing land/trail use policy. The BYLAWS are not a suitable place for any land use policy.

Your Board of Directors are elected for two-year terms. The current terms for all of the board members expires in the Spring of 2002. Elections will be held during the 2002 Annual Meeting of the Members .

Comments not in favor of the Rutter's Proposal

(Email) We have lived in Foxhall since December of 1983. One of the attractions of this development was its trails for horses and walkers. The first few years, residents had battles with those who wanted to use motorized vehicles on the trails. That finally was settled. We bought into this neighborhood with the idea that the trails were to be used only by residents. This is a liability issue. We might agree with a limited permit use if the question of liability is answered satisfactorily, and if it follows what you envision. We do not want the trails open to anyone who wants to go on them. Larry Rutter's contention that any increase in trail usage by horseback riders likely will be imperceptible may be true, but by opening up the trails as expressed by his proposal, we see only trouble ahead

(Email) My wife and I bought land and built in Foxhall because of the Covenants. We support any efforts to keep non residents from using the Foxhall "common properties", i.e. playground, trails. Besides liability issues, there are also security issues. We are opposed to the initiative to "allow friends and family of any Foxhall property owner to use our trails unaccompanied" (again, liability and security issues). If this is allowed to happen, it will be the first of many exceptions or modifications to the Covenants. Our view is that the Foxhall residents who are making this proposal knew the rules when they bought into Foxhall. We will oppose any effort to change the Covenants.

(Letter) ...The proposal submitted on Page 2 (FOXHALLIAN) is rejected and will receive a negative vote from this member. If the issue raised by Mr. Rutter questioning the validity of "guests being accompanied" is determined to be accurate, then the issue reverts to the original wording of the covenant; and that can be interpreted that only residents in Foxhall shall use and shall benefit from the trail. To amend the covenant to then permit use by non-residents, much less unaccompanied non-residents, most certainly constitutes a drastic change in the covenant and certainly warrants a major effort to insure that all members are apprised and made certain they understand the significance of this matter..., we sincerely appreciate your effort to seek resolution to this longstanding problem. We thought it was resolved in 1997. It is not unlike pursuit of a failed school levy. While I have some thoughts that may be constructive relative to your Page 8 and 9 discussion of Revocable Permits and the process of notifying residents and obtaining votes, I think it would be too lengthy and perhaps confusing to address here.

(Email) I spoke to my insurance carrier, USAA last week, and asked for their opinion..., They said, for most states, there is a difference between accompanied guests and invited guests when determining liability. They said that if someone hurts themselves on Association property, members of the association can be held liable, that is, I can be sued for damages if someone hurts themselves on association property. They suggested that if invited guests are allowed, I increase my insurance policy, it would be about \$30 a month more for \$1 million coverage. They also suggested that if my property abuts any of these properties that I install a fence.

(Email) Have Larry Rutter add another sentence to his proposal to the effect that those inviting nonresident riders to use the trails will personally assume any liability attendant to such activity. Better yet, a \$10,000 bond will be posted by each association member who invites nonresident riders to use the trails

(Letter) ...We all signed the same covenant which prescribes that residents of Foxhall shall benefit and use the trail. That was a major factor in our purchase decision. It was much later we learned of the "accompanied guest" apparent amendment/policy change. We reluctantly accepted pending further evaluation which is ongoing. (with regard to question 2 of the Rutter's letter) ...he resorts to being concerned about "dangerous traps, or frankly, rude confrontations from self appointed vigilantes." Now if he believes that a resident of Foxhall does not have the right to speak to someone on the trail and that such a speech is rude, he just might consider anger management counseling... (with regard to questions 3, 4, and 5 of the Rutter's letter) he dismisses as being no problem - or, they are walking and not subject to his jurisdiction - or, ignore that because they did not ask the right questions. He appears prepared to take over complete management of the trail system and perform their duties to issue the permit, protect the permittees, and accuse and intimidate residents that may complain or disagree. I have seen this happen before in other areas of the country. We called this the "smoke and mirrors" approach. Next, I would expect his response to be shock and dismay that someone would misinterpret his good intentions. ...Virgil Adams drafted an excellent document from which this Association could develop..., The same rules agreed to when the covenant was signed. As soon as you change a rule to please one person, another person becomes unhappy....

(Email) ...(Foxhall) was warned by someone at the insurance company to be very careful in discussing our policy with the company as we have a very low premium that would be increased if anyone there really looked at it.

(Email to Larry Rutter) ... The point of this email is to let you know that I do not agree with the attempt to expand the intended use of the trails for property owners. While I can appreciate your point of view, I simply don't agree with it. And, I respect your right to disagree with me. For me, the exclusivity of the trails adds to the value of living in Fox Hall. Allowing unaccompanied non-residents will distract from the exclusivity. Additionally, non-resident usage will add to maintenance and other costs for the residents of Fox Hall. In the spirit of compromise,

(Letter continued) however, there may be some things that can be done to accomplish some additional usage without severely impacting the exclusivity. Perhaps, paying a sizeable fee by a few seasonal non-residential users would be possible. But, if the non-residential usage is permitted, then entry must be through private land (imagine the horse trailers lined up in the park if we allowed unrestrained access by non-residents). Entry through private land implies approval by a resident and involves them in liability issues. Before this is agreed to by me however, specific procedures must be in place to severely limit the number of permits available to non-residents and to limit our liability. Having been in the insurance business, I believe you are a bit naive about the implications of allowing non-residents on our trails. There would be significant additional liability exposure that is not possible to quantify but is there nonetheless. . While we may have procedures in place to absolve us of liability, we are still obligated to defend ourselves against non-meritorious claims. This defense is provided by insurance policies and without insurance coverage the risk to even have trails would be too high. And, believe me, if there were a serious accident (say a quadriplegic injury like I've seen in a similar property in California) the attorneys for the plaintiff are obligated to sue everybody in sight to find reimbursement for their severely injured client. Plus, with joint and several liability possibilities, we could be liable even though we are only tangentially involved. I doubt you would personally agree to pay for all injuries for all non-residents using our trails. Yet, through the request to change the exclusive resident rules and procedures, you are asking the residents of Fox Hall to do just this.

(Email) ...We all pay our fair share in property taxes and fees to live in this private neighborhood. I agree we should be able to share our homes and trails with our guest's and family (accompanied). To change this policy is to open our private community to the public. I do not want to live in a state park. I have an investment here and do not want that jeopardized. It's a matter of control. Non residents should play where they pay.

(Letter) ...first glance, ... proposal to allow invited guests to ride on the Foxhall Bridle Trails, seems reasonable. After further thought on the subject, ... we have come to develop a position of our own. Our position is to do all we can do to defeat such a proposal. The reason has nothing to do with horses... If we can make the case for a proposal to allow invited guest to ride horses (unaccompanied) ...we can make the same or a similar case for opening the trail up to walkers and bike riders that are not property owners. Our position is based upon the fact that we are not at all interested in an increased risk for a potential lawsuit, ...we subscribe to the statement made, "*if there is an exception to a Policy, then there is no Policy*". The Policy would need to be amended to allow the trespassing activity to be a non-issue.

(Email to Larry Rutter) : we have no problem with your sisters and nieces using the trails, as long as you accompany them. I am sure they are nice people, but we do not know them. I am very concerned that if your proposal is adopted, the situation will quickly get out of hand. Soon, friends of your relatives are accompanying them, then friends of friends...and so on. We are opposed to your proposal or any modification of it.

(Email) How many surveys do we have to respond to and say we don't want unaccompanied outside people using the Association trails? If we 'open up' the trails, we will not be able to control who lets who in, so if I vote, it will to be keep the current policy.

(Email) ...if someone hurts themselves on the Association property ... can I be sued?

The Association had that question answered in 1984 by the law firm of Duryea, Houchins, Murphy & Davenport. **The answer is YES!** Their findings were that under Washington's law the Association would be liable for injuries to other persons which may occur from use of the properties maintained by the Community Association. The Articles of Incorporation, Bylaws, and the Protective Covenants applicable to Foxhall create a system by which all members are liable for any obligations of the Community Association. The significance of the provisions is that any claim for personal injury arising from the use of the properties maintained by the Association which give rise to judgement for money damages against the Association would be an obligation of the Association which must be passed on to members of the Association in the form of Assessments. Because assessments may be enforced as liens against member's property, the impact on property owner/members may be just as significant as though directors were individually liable. There is a distinction however, that is that individual liability of directors pursuant to judgement would expose all of the assets of the individual directors to retirement of the judgement, whereas a judgement foreclosing the Association's assessment lien against the individual property owner would expose only the asset of the individual property to retirement of the judgement. The assessment lien approach exposes the property of all the owners/members.

COMMENTS SUPPORTING THE RUTTER'S PROPOSAL

(Forwarded by email from Larry Rutter) I wanted to respond both to your letter and the Foxhallian that we recently received with a strong vote of support for your stance on the trail issue. I hope that you have an overwhelming response in favor of your views on this matter, and if you don't I'll go out campaigning for it too.

(Email) First ... if we ever do find out who's putting debris and NAILS on the trails ... they should be made to pick them up with their teeth in a driving rainstorm.... there is no call for this kind of childish behavior no matter what! Second we have rules to follow ... but if they don't make sense anymore then they need to change to reflect the changing reality and the needs of the Homeowners in the community.

(Email) We are not horse people because I know first hand that they make big messes and I spent a part of my youth cleaning up after the big critters! BUT I do understand horse ownership and the fact that they need places to ride and the people in this community need a safe place to exercise and enjoy their animals ... so trails are a good thing and having access to a world class horse facility ... like the one right next door does nothing but increase the value of peoples property for those that are looking to buy property in Foxhall for the purpose of having horses. So giving the neighbor next door access to our trails ... within limits and with revised rules to follow will only help ... and reduce our liability in the long run. If we do Nothing because we already have rules to follow and they work for the people ... who don't have horses and just want a KEEP OUT SIGN posted are putting the community in a position of running into liability problems in the long run ... because the rules will continue to be broken ... knowingly or unknowingly and the fact the community chose to ignore the issues is not a solution. We really have no enforcement process for the rules we have now and calling the cops might work for a while ... but that too will end and the lawsuits will begin! So I agree with the proposal to revise the rules ... granting a Trail Use

(Email) License with a fee and Liability Disclaimer that the Licenses assumes all risks and liability of their use of the trails on themselves at their own risk.

(Email) Concerning the trail use by none residents.

a) My personal observation is that trail does not appear to be over used, however maybe under maintained is a better description. b) I am not too concerned about liability nor do I take issue with friends, etc. using the trail for pleasure or to come visit from an adjacent property. c) In the specific case where this person referred to in the newsletter is requesting access to the trail without a property owner accompanying them so as to take a short cut to the adjacent riding area, it seems that this use should be supported with a annual fee for the upkeep of the trail.

(Email) We have lived in Foxhall for nearly 13 years and one of the main reasons for buying here was equestrian trail access. ..., As a avid horse rider I sympathize with the need for quality trails to ride on. We often rely on the goodness of people to let us access their land. As a rider I generally tried to talk to the owner to get permission to use the land, although in many cases this was not possible..., I support allowing some permits to be issued to people wanting to use our trails. If people plan to use them on more than occasional use (without being accompanied by a resident), I would like to see them pay some sort of a use fee. The trails could really use some better maintenance and these fees could be directly applied to this. As a horse rider I would love to have access to more trails and I would be very happy to pay a use fee in order to use additional trails. This could allow riders to access our trails legally and for us to generate some extra revenue for trail improvements.

(Email) I am writing to let you know I am very much in favor of adopting the proposal made by Larry and Deborah Rutter. I believe it is fair and thoughtfully put together. I will be getting a horse but only one and would like my sister and any trainer I might hire to be able to ride the horse on the trails and I don't want to be running after them to keep things legit. Use of the trail to ride is one of the reasons I recently bought in this development. ...

(Email) In 1985, my wife and I bought our lot ...in Foxhall..., Since then, we have much enjoyed our rural, natural living environment. We are retired folks and not horse owners or riders, but we would like to express our support for the Horseback Riders Policy suggested by Mr. Rutter in his March 14 and 27, 2001 letters to the Foxhall community. His March 14 proposal appears to be the reasonable solution to a thorny problem.

Comments on Foxhall's relationship with the Equestrian Center and the trail use proposal...

The President received this well written Email on Saturday, April 21, 2001. The text of the email, and the Presidents response explain some of the issues, and disclose a recent confrontation with the Equestrian Center.

Dear Mike:

I am writing in response to your request for comments regarding the newsletter that you sent out. I am one of the "horse people" that would like to see some changes in regard to the so called "policy" that supposedly exists that prevents my friends and family from using the Foxhall trails unless accompanied by me.

Some background as to where I fit into the neighborhood would probably help. I live at ..., and I am also one of the parties that you refer to in your newsletter that boards her horse at Forest Park. I have used the trails in the past to access Forest Park both on foot and on horseback.

I am well acquainted with the owner of Forest Park and everyone that boards there. The perceived threat that any parties from Forest Park would access Foxhall trails is totally ridiculous. They have their own trails (which are rarely used) and I might add that their trails are much nicer than Foxhall trails. With an exception or two, all of the horses there are expensive dressage show horses that are ridden in an arena almost exclusively. Their idea of trail riding is a 10 minute ride around the property after an hour session in the arena. And secondly, almost all of the residents of Forest Park are not exactly fan's of their neighbors in Foxhall. The unfriendly attitude that some residents of our community have displayed is very evident to them. They have no desire to be accused of trespassing in Foxhall. The fence building incident didn't exactly make us any better "good neighbors". The only reason Shannon Morris hasn't closed off the entrance from Foxhall and barricaded herself from all of Foxhall is partly due to the use of the facility by about three regular visitors from Foxhall.

Forest Park is truly one of the finer equestrian establishments in the Northwest. It is unfortunate that some residents in Foxhall don't understand that it is a far better neighbor to have than the full blown housing development that surely would have been built there in the future. Changes in property zoning do occur as we all know all too well. Foxhall property values have surely been enhanced by having this facility in it's back yard. To live in such close proximity and have the ability to access it on horseback is a major selling point for people in search of acreage for horses. Enough said about Forest Park.

My issue with the policy has several facets. In the future I might choose to board an additional horse on our property. That boarder might be someone that wants to use Forest Park and access it on horseback. Another possibility is that my mother may come to live here in Olympia. If she did, she would keep her horse at my home. I might on occasion also have her exercise my horse on the trails. Will I have to instruct her to tell the "resident police" that she lives with me? In addition I also have a 10 year old niece that came to ride with me this past summer on one of my horses. Is it so unreasonable to expect that these people might be allowed to use the trails when I am not with them? I don't think so.

There was also a circumstance where (my husband's) mother came here from Seattle to house sit for a week. Should she not be allowed to walk her dogs on the trail? If she did would she be accosted in the same fashion as our "resident trespasser" ? Really, this whole issue has totally gotten out of hand! If I am personally stopped on the trails by our "resident police" while on horseback, I hope they are fast on their feet because I intend to keep moving as I do not intend to be subjected to this nonsense.

The residents in Foxhall that have taken it upon themselves to police the trails and go to the extent to drop nails are seriously in need of finding a better use for their time. They obviously have too much of it. I am also somewhat surprised that some type of a "stop and

desist" notice was not mailed out by the board to residents here in Foxhall when the nail dropping began. The seriousness of that activity was highly underestimated.

I personally am not involved in this issue to further the cause of our "resident trespasser" although I do not see the need to go out of our way to deter her from using the trails to gain access to Forest Park. If our trails were overly used by the residents here and her use was an additional burden it would be an issue. We all know that is not the case. Why certain residents here feel they have to police this issue is beyond me.

I will be riding to and from Forest Park this summer, should I offer to escort our "resident trespasser"? Would that make everyone happy? No, because the issue is bigger than that, she is not the issue. It is the so called "policy" and certain residents trying to be so hard lined about this "policy" that is the issue in my mind.

Larry Rutter has tried to present a very objective view of this issue and is willing to present it in a fashion that meets within the guidelines of the bylaws. As far as I can see there is no covenant or policy to be changed. We are however, willing to present a proposal to establish a policy on this issue.

The President then sent this quick response:

Thanks for the letter. While I share some of your views I don't share all of them. The only one that really disturbs me is "If I am personally stopped on the trails by our "resident police" while on horseback, I hope they are fast on their feet because I intend to keep moving as I do not intend to be subjected to this nonsense." Contrast that statement with "...now if he (Larry Rutter) believes that a resident of Foxhall does not have the right to speak to someone on the trail and that such speech is rude, he just might consider anger management counseling. As a 32 year experienced law enforcement officer, trained in international and domestic law enforcement, sworn to uphold the laws of the United States, I am deeply offended and insulted at the reference by Mr. Rutter to "... Rude confrontation from self-appointed vigilantes...."- that comment from a well respected Foxhall resident (that conducts himself in professional and courteous manner, but strongly objects to being labeled a "vigilante" as he is a bona fide and legitimate part owner of the Foxhall trails and community property). It is unfortunate that Foxhall has the relationship it has with the Equestrian Center. It appears you have part of the story. I recently called Shannon Morris (Manager of the Equestrian Center) and left a message on her phone. She never returned my call. The following day we had a meeting after she had a dozer clear and grub a ten foot wide path about 2000 foot long (that's how far they got before I stopped them) along a Foxhall Trail - a trail that members had previously spent time clearing, picking up rocks, and seeding (have you or any in your family ever assisted in trail maintenance?). We would not have had the meeting, but I needed to call the Sheriff to get them to stop (It appeared they were not about to stop with just me asking them to), and at the request of a Deputy Sheriff Shannon Morris made an appearance. At the time Forest Park was clearing and grubbing to make it easier to construct a boundary fence (all the clearing and grubbing accomplished on Foxhall properties, none accomplished on Equestrian Center properties). The first thing I did was ask Shannon if she had received my call the night before, she acknowledged that she had. I asked her why she had not returned it; her response was "I know who you are, and I don't want anything to do with you or Foxhall....") **It ended with me filing a criminal trespass complaint and malicious mischief complaint with the Sheriff. Something I would rather not have done**, but was left with little other choice. We have not yet moved on my complaint, but then since I can't seem to coordinate with the Equestrian Center for them to repair the damage, what am I (should have said "we") to do? I don't think many in Foxhall really objected to the Equestrian Center - the objection was to the accompanying cluster housing (Forest Park) that funded its development. I know that was the case in my personal situation. Thanks again for the well written letter, its going to cause me to edit my newsletter to get it included. Newsletter should be out this week.

OTHER ISSUES brought to the board since the March Foxhallian Newsletter....

(Email) I would also like to mention the noise from younger people living in the area driving through with their car radio booming so loud it vibrates my home. This is illegal and I feel the parents should be discussing and enforcing some limits on this behavior. I would appreciate this issue being raised to the other members of the development.

Cars with disturbingly loud stereo systems.... Board Members have received a number of complaints about loud radios in cars last summer and again this spring. The President has talked to two young offenders that live in Foxhall and informed them of the complaints and asked them to keep it down to a sensible level. Both young men said they "got it" at the time and that was the end of the discussion. But the President is again hearing these vibrations as he is in his home, more than a 100 yards from the road, and he believes the noise is coming from either the VW Jetta or Toyota 4Runner whose drivers he has talked to. It must be such a terrible temptation to have this capability that they just have to use it. Some times just teasing with sort blasts. Well it has to stop, it's just too annoying, and annoying too many people. If anyone wants to complain to the Sheriff about either of these individuals if they do it again, the President will back you up by relating his previous warnings. If you can identify other offenders to the President he will contact them and tell them of your and the communities complaint. If you find that these youths with the disturbingly loud stereo systems live at your house, or that they have friends with the equipment capable of disturbing your neighbors, you can make it simple by taking the responsibility and put controls on these offenders.

(Email) The newsletter points out the current problem we are seeing with speeding. My I suggest that we proceed with a Playground Sign with a zone speed of 20 mph if children present.

SPEEDERS... This was a judged to be a serious problem last year when the new Board of Directors received a number of complaints. The above complaint is the first that has been received this year. Last year the President talked with a couple of high speed drivers that actually passed him while he was travelling at or near the speed limit on Foxhall Drive – one of them passing near the playground. These drivers appear to have slowed down. He has also waved at others to slow down, and noticed that several residents will shout at speeders to "**SLOW DOWN**" when they are in their yards and a high-speed car passes by. If this happens to you, and someone tells you to "**SLOW DOWN**" there is no room for road rage. You are most probably in the wrong. This is a residential area and the speed limit is 25 mph. There is a reason you don't see more people out on the road – it's too dangerous with the speeds of some cars and trucks travel on roads that may be shared with walkers, runners, bikers, adults, kids, dogs, and horseback riders.

(Email) Thank you for cleaning up the playground area of Dog Waste - My wife had mentioned that it was awful.

(Email) Trail Maintenance - although I do not have horses, I enjoy the trails. There are several places around the trail that suffer from poor drainage and could use some simple improvements to improve the trail for all users.

(Personal conversation with a Board Member) Vandalism and general mischief is an ongoing problem! Residents have given up repairing their mailboxes as they have been damaged repeatedly. People illegally driving their cars and smaller ATV's on the playground have damaged it. The Association should consider installing video surveillance cameras to help law enforcement catch these hoodlums, and put an end to this nonsense.

This newsletter with typos errors and abuse of the English language is brought to you by the Board

We welcome your comments

Foxhall Community Association

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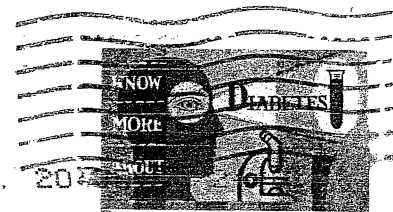
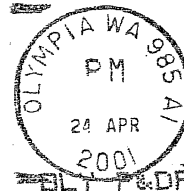
Nancy Schmidt, At Large
3932 Foxhall Drive NE
phone 491-5387

PLEASE READ

Members of the Association that have homes along Hawks Prairie Drive have asked the Association to assist them in opposing planned road realignment and improvement that would result in losing much of their property, and the loss of a number of mature trees. The proposed improvement would reduce the elevation of Hawks Prairie Road at our East (higher) entrance, thereby reducing the sight distance available for accessing Hawks Prairie Road from Foxhall Drive; and when the road gets slippery, give Foxhall residents the opportunity to slide through stop signs at both exit-points from Foxhall onto Hawks Prairie Rd. The Board of Directors has decided to support their request and has forwarded an objection to the County Commissioners and County Engineer.

Kevin O'Sullivan, Chairman, Board of County Commissioner has offered to come and visit the Foxhall Community Association. He would bring with him Sheriff Gary Edwards, and Prosecutor Ed Holm and other elected or individuals who could provide specific information. He would like to research issues in advance of the meeting – and this is the courteous way to conduct this sort of business. If you have any issues you would like Commissioner O'Sullivan and his party to address please forward them to a Board Member. If you have a suggestion for a time of the week to have this meeting please give them to a Board Member and it will be considered.

Foxhall Community Association
4522 46th Court NE
Olympia, WA 98516



Mike & Priscilla McGee
6311 Fox Trail Dr. NE
Olympia, WA 98516

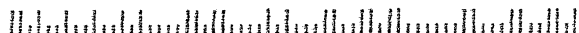


EXHIBIT D

HORSES
HAZARDOUS
CROSSING!
STEEP SLOPE
&
FAST TRAFFIC
FOXHALL COMMUNITY
ASSOCIATION



**EQUESTRIAN
TRAIL**



**Foxhall
Trail**
For private use of residents and
accompanied guests only.
No motorized vehicles.
Trespassers subject to prosecution under
RCW 9A.52.080
Foxhall Community Association

BRIDLE TRAIL
FOR PRIVATE USE
BY MEMBERS AND
ACCOMPANIED
GUESTS ONLY
FOXHALL COMMUNITY ASSOCIATION

**FOXHALL
TRAIL**

**FOXHALL TRAILS ARE
PRIVATE PROPERTY**
Do you live in Foxhall? **NO**
Is a Foxhall resident with you? **NO**
Then **YOU** are a **TRESPASSER**
Subject to prosecution under
RCW 9A.52.080
Note: Boarding a horse in Foxhall
does not make you a resident.
FOXHALL COMMUNITY ASSOCIATION

EXHIBIT E

Foxhall Community Association

Gary and Judy Johnston
5737 Middleridge Court NE
Olympia, WA 98516
May 10, 2013

Dear Gary and Judy Johnston:

The Foxhall Community Association (FCA) Board continues to receive reports that people who board their horses at your stable are riding the community horse trails without an accompanying resident. You are aware of this issue from discussions with Foxhall residents and earlier Boards, and from multiple signs posted on the trails for well over twenty years:

Foxhall Trail
For private use of residents and
accompanied guests only.
No motorized vehicles.

Trespassers subject to prosecution under
RCW 9A.52.080

Foxhall Community Association

BRIDLE TRAIL

FOR PRIVATE USE BY MEMBERS AND
ACCOMPANIED GUESTS ONLY

Trespassers Subject to Prosecution Under
RCW 9A.52.080

FOXHALL COMMUNITY ASSOCIATION

This requirement applies to all Foxhall Community Association parks and trails: they are owned in common by Foxhall property owners and are for the private use of residents and accompanied guests only.

The Board suggests a simple way to resolve this violation, which would be for you or a Foxhall resident to accompany or ride with your boarders on the trail. You could even likely hire a resident to ride with your boarders.

The Board anticipates you will comply with the requirements.

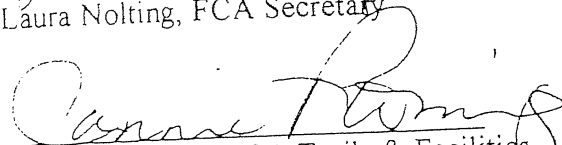
Sincerely,


Theresa Lowe, FCA President


Peter Birch, FCA Vice President


Laura Nolting, FCA Secretary


Carolyn Pendle, FCA Treasurer


Connie Fleming, FCA Trails & Facilities

cc FCA Architecture Control Committee: Burleigh Cubert, Carol Edwards, Keith Long
Bob Pendle, Dick Wadley

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Postage	\$ 0.46	0673 33 Postmark Here
Certified Fee	\$3.10	
Return Receipt Fee (Endorsement Required)	\$2.55	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 6.11	05/13/2013

Sent To
 Street, Apt. No., or PO Box No. Gary & Judy Johnston
 5737 Middleridge NE
 City, State, ZIP+4 Olympia WA 98516

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature X Gary E. Johnston <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) GARY E. JOHNSTON</p> <p>C. Date of Delivery 5-15-13</p>
<p>1. Article Addressed to: Gary & Judy Johnston 5737 Middleridge NE Olympia WA 98516</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from service label)</p>	<p>4. Restricted Delivery? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

7012 3460 0001 5257 9976

EXHIBIT F

Foxhall Community Association Special Meeting of November 19, 2015

Minutes

1. Special Meeting Called to Order by Denise Solveson at 7:30 pm. Special Meeting agenda provided to all present.(See Attachment A-Agenda)
2. Rose Eilts designated as Parliamentarian.
 - Reviewed Rules of Meeting including those printed on the Meeting Agenda
 - Referenced Minute Taker
 - Reviewed Special Meeting Process referencing the Foxhall Community Association Bylaws stating sufficient number of special meeting requests was collected to satisfy the requirements of both the Foxhall Community Association (FCA) Bylaws and the Revised Code of Washington.
 - Reviewed the process for amending the Bylaws as written in the FCA Bylaws.
 - Requested all present to sign the sign-in sheet.(See Attachment B
 - Requested a motion to discuss the proposed Bylaw.
3. Motion made and seconded to discuss the proposed Bylaw.
4. Motion made and seconded to amend the proposed Bylaw.
5. After a vigorous discussion a Ruling was made by Parliamentarian to continue the meeting by discussing the original, proposed Bylaw as written in the agenda thereby following the Rules of the Meeting
6. Statement in Favor of the Proposed Bylaw by D Solveson (10 Minutes)
7. Floor Opened for a 10 minute period of further comment.
8. Discussion and comments made in support and opposition of proposed Bylaw.
9. Ruling by Parliamentarian asking members to not speak about another person who is not here in attendance.
10. Ruling by Parliamentarian extending discussion period
11. Motion made and seconded to form a committee to discuss the situation and recommend a resolution. Discussion ensued.
12. Motion made and seconded to amend the motion on the floor, motion stated as "if a committee is formed they would be required to meet with a professional mediator or facilitator from an organization such as the Dispute Resolution Center and the mediator would be required to report to the board and the community." Discussion ensued. Vote taken. With a show of hands vote the Motion passed.
13. Motion on the floor restated as "To table the vote until a committee can be formed and discuss this further." Vote taken. Motion did not pass. Request for a recount made. Recount of show of hands vote was done. Motion did not pass.
14. Discussion continued regarding the original, proposed Bylaw.
15. Motion made and seconded to vote on the proposed, original Bylaw. Paper ballots distributed. (See Attachment C, Paper Ballot)

Note: The Proposed Bylaw as printed on the Bylaw Ballot reads as follows: Article VI; POWERS AND DUTIES OF THE DIRECTORS Sec 9. Foxhall Parks and Trails are for the exclusive use of residents, families and friends. Nonresident visitors must be accompanied by a resident when using Foxhall Parks and Trails. Foxhall Association members' businesses may not extend their business activities onto Foxhall

Parks and Trails. Members' business invitees, customers, or patrons, whether in trade or in barter, are prohibited from using Foxhall Parks and Trails, even when accompanied by a Foxhall member.

- 16 Point of Order regarding "what is on the different proxy forms?" Parliamentarian reported that after the last meeting of October 27, 2015 all the proxy forms were taken to an attorney who confirmed all the proxy forms were valid.
- 17 Paper ballots collected. Paper ballots and proxy votes counted twice.
- 18 Results of Vote Announced with 78 votes yes, for the proposed Bylaw and 18 votes no against the proposed Bylaw. The Motion to pass the proposed Bylaw passed.(See Attachment D, Summary of Voting Results)
- 19 Motion made and seconded to adjourn. By acclamation all were in favor of adjournment at 9:20 pm.

Respectfully submitted,



Carol L. Langford
01/11/2016

Addendum: As reported by D Solveson following a request from F. Paul Carlson, Foxhall Community Association Board of Directors Secretary copies of the sign-in sheet, ballot summary reporting sheet, paper ballots and proxy vote forms were submitted to him on December 2, 2015 at the close of the FCA Budget Meeting.

Carol Langford (CL)
01/11/2016

See Attachments:

- A – Foxhall Community Association Special Meeting November 19, 2015 Agenda
- B – Foxhall Sign-In Roster printed 11/18/2015
- C – Bylaw Ballot for 19 November 2015 Foxhall Community Association
- D – Summary of Ballots for 27 October Form 2015 dated 11-19-2015

Foxhall Community Association
Special Meeting November 19, 2015
Agenda

1. Call to order by Denise Solveson.
 - Minutes taken by Carol Langford.
2. Rules of meeting read by Parliamentarian Rose Eilts.
 - Abbreviated Roberts Rules of Order: Motion, Second, Discussion Vote, Adjourn, Point of Order.
 - Denise will speak first, in favor of bylaw; speaking second will be those not in favor of bylaw, who will have the same amount of time as Denise. Then Denise and other members will have some time to refute. Those not in favor of bylaw will have the same amount of time to refute Denise and others.
 - No interruptions. No filibustering.
 - When called on by Parliamentarian, please stand and state your name and address for the minutes.
 - Motion to end discussion and vote.
3. Reading of bylaw by Parliamentarian Rose Eilts.

Article VI: POWERS AND DUTIES OF DIRECTORS Sec. 9.
Foxhall Parks and Trails are for the exclusive use of residents, families and friends. Nonresidents visitors must be accompanied by a resident when using Foxhall Parks and Trails. Foxhall Association members' businesses not extend their business activities onto Foxhall Parks and Trails. Members' business invitees, customers, or patrons, whether in trade or in barter, are prohibited from using Foxhall Parks and Trails, even when accompanied by a Foxhall member.
4. Discussion by Denise Solveson and attendees.
5. Vote from membership.
 - Sign in sheet is used for record of attendance and voting tally.
 - Keith Solveson, Bob Pendle and Carol Langford will count ballots and proxies and provide results to membership.
 - Written ballot overrides previous proxies.
6. Adjourn by Denise Solveson.



Foxhall Sign-In Roster

FCA - Special Meeting Minutes
 (11-19-15)
 Attachment B Page 1

Div	Lot	Fname	Lname	StNbr	StName	Signature
2	50	Mary	Alexander	4734	Foxhall Dr NE	Mary Alexander
1	14	Chris & Nancy	Allaire	4305	Foxhall Dr NE	
5	1	Mary Waltrip & Bob	Armstrong	5104	46th Ct NE	John F. Waltrip
1	19	Johnny	Austin	4202	Foxhall Dr NE	
2	45	Cheyenne & Aracelli	Babcock	5906	44th Way NE	
2	42	Audrey	Banner	6025	44th Way NE	
2	51	James & Ellen	Berg	4808	Foxhall Dr NE	Ellen Berg
3	4	Bernard & Wendy	Bersano Jr.	5542	46th Ct NE	
2	73	Vincent & Kelly	Bizilj	5604	42nd Ct NE	
3	17	Alan & Rosella	Bosak	4945	Foxtrail Dr NE	Alan Bosak
2	36	Loren & Donna	Bosshard	5928	Foxhall Ct NE	
4	31	Chris Crew & Jessica	Bradley	5015	Foxtrail Dr NE	Chris Bradley
3	27	James & Ann	Brewer	4645	Foxtrail Dr NE	
4	34	Bruce	Brinton	5030	Foxtrail Dr NE	Bruce Brinton
3	10	Allen	Brown	4728	Foxtrail Dr NE	
1	32	Thomas & Evelyn	Brown	5721	Arrow Ct NE	
3	7	Gary & Renny	Brunt	4600	Foxtrail Dr NE	Gary Brunt
2	52	F. Paul & Judith	Carlson	4820	Foxhall Dr NE	
2	59	Bob	Carroll	4941	Foxhall Dr NE	
1	15	Sandra Guth & Paul	Cereghino	4337	Foxhall Dr NE	
2	66	Kwang & Mo	Chang	4539	Foxhall Dr NE	
4	30	Raymond & Patryce	Chavis	5007	Foxtrail Dr NE	
3	8	Stephen & Deborah	Cherniske	4646	Foxtrail Dr NE	
2	60	Song Ho & Mi Young	Choi	4911	Foxhall Dr NE	Song Ho Choi
3	24	Robert & Dana	Clark	4817	Foxtrail Dr NE	


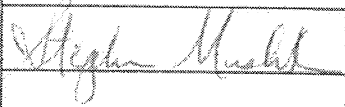
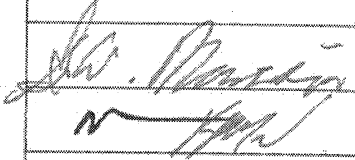

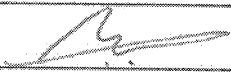

Foxhall Sign-In Roster

Div	Lot	Fname	Lname	StNbr	StName	Signature
1	7	Ray & Julia	Collins	4013	Foxhall Dr NE	
2	43	Patrick & Janis	Corkrey	6028	44th Way NE	<i>Fanny Corkrey</i>
1	17	Randy	Corrigan	4247	Foxhall Dr NE	
2	74	Mark & Shelly	Couey	5535	42nd Ct NE	
1	12	Chad & Elizabeth	Crowley	4211	Foxhall Dr NE	
1	13	Chad & Elizabeth	Crowley	4211	Foxhall Dr NE	
3	26	Burleigh & Carolyn	Cubert	4711	Foxtrail Dr NE	<i>Burleigh & Carolyn Cubert</i>
2	63	Erik & Sara	Dedekam	4721	Foxhall Dr NE	
3	29	Chet & Merlene	Diercks	4623	Foxtrail Dr NE	
1	5	Jim & Marcia	Due	3947	Foxhall Dr NE	<i>Marcia Due</i>
4	36	Douglas & Debra	Dyjak	5014	Foxtrail Dr NE	<i>Debra Dyjak</i>
3	16	Kerri Stoehr & Jack	Ecklund	4848	Foxtrail Dr NE	<i>J. Ecklund</i>
1	16	Curtis & Carol	Edwards	4310	Foxhall Dr NE	
2	61	David & Constance	Fleming	4831	Foxhall Dr NE	<i>Constance Fleming</i>
3	19	Tom & Mary	Fluke	4939	Foxtrail Dr NE	<i>Tom Fluke</i>
3	22	Keith Delapp & Penelope	Goode	4925	Foxtrail Dr NE	
2	55	Jerry & Kristin	Gorum	5026	Foxhall Dr NE	
1	24	William & Dian	Gowen	5718	Middleridge Ct NE	
1	4	Mike & Chris	Gregoire	3939	Foxhall Dr NE	
1	28	Michie	Griego	5701	Middleridge Ct NE	
3	3	Curt & Peggy	Gronewald	5518	46th Ct NE	<i>Peggy Gronewald</i>
2	58	Bill & Nicole	Grous	5027	Foxhall Dr NE	
4	33	Peter Birch & Kathy	Hamel	5031	Foxtrail Dr NE	
5	3	Steven	Hanson	5110	46th Ct NE	
2	47	Scott & Michele	Harriage	4533	Foxtrail Dr NE	<i>Scott Harriage</i>

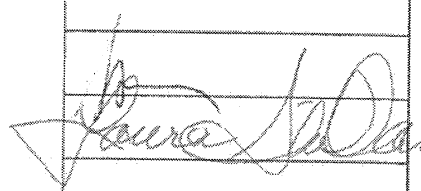
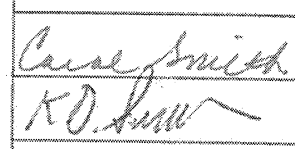


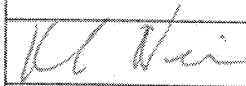
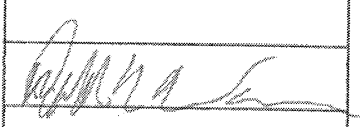
Foxhall Sign-In Roster

Div	Lot	Fname	Lname	StNbr	StName	Signature
2	38	Nancy	Hauptert	5931	Foxhall Ct NE	
2	53	Stan & Hyun	Heo	4832	Foxhall Dr NE	
3	21	Steven & Joan	Hewitt	4929	Foxtrail Dr NE	<i>Steven Hewitt</i>
4	32	Roger & Janet	Hill	3023	Foxtrail Dr NE	
1	11	Rose Eilts & Ron	Holeman	4209	Foxhall Dr NE	<i>Rose Eilts</i>
1	3	Brent Raymond & Jennifer	Hooper	3927	Foxhall Dr NE	
3	5	Linda	Hull	4603	Foxtrail Dr NE	
1	26	Sterling & Sheri	Ingram	5733	Middleridge Ct NE	
2	70	Robert & Deanna	Jackson	5534	43rd Ct NE	
1	2	Will & Jean	Jespersen	3915	Foxhall Dr NE	
2	34	Gary & Judy	Johnston	5737	Middleridge Ct NE	<i>Gary E. Johnston</i>
3	28	Isaac & Kim	Jung	4635	Foxtrail Dr NE	
1	29	Nancy Lee Lovrien-	Kauffman	3932	Foxhall Dr NE	<i>Nancy Kauffman</i>
2	72	Andrew & Karena	Kolibas	5626	42nd Ct NE	
1	31	Bill & Carol	Langford	5720	Arrow Ct NE	<i>Carol Langford</i>
2	65	Cindy Coble & Patrick	LaValla	4537	Foxhall Dr NE	<i>Cindy Coble</i>
2	64	Bert & Lynn	Lewis	4629	Foxhall Dr NE	<i>Bert Lewis</i>
2	54	Keith & Linda	Long	4924	Foxhall Dr NE	
3	13	Judith Anderson & Dennis	Longnecker	6345	Foxtrail Ct NE	
3	11	Theresa	Lowe	6301	Foxtrail Ct NE	<i>Theresa J. Lowe</i>
1	1	Kelly & Cindy	McAllister	3903	Foxhall Dr NE	<i>Cindy McAllister</i>
1	6	Aaron & Jessica	McDonald	4001	Foxhall Dr NE	
1	27	Randy & DeAnna	McIntosh	5717	Middleridge Ct NE	
2	71	Maggie Bell & John	McKinnon	5520	43rd Ct NE	
1	21	Jack & Joan	McMillen	4030	Foxhall Dr NE	

Foxhall Sign-In Roster

Div	Lot	Fname	Lname	StNbr	StName	Signature
1	18	Kit & Meryl	Metlen	4218	Foxhall Dr NE	
1	10	Craig & Marsha	Mills	4123	Foxhall Dr NE	
1	33	Craig & Marsha	Mills	4123	Foxhall Dr NE	
3	25	Paula Schweich & Stephen	Mishkin	4739	Foxtrail Dr NE	
2	81	Kathy Monte	Monte	5119	Foxhall Dr NE	
2	80	Kathy Monte & Richard	Montemarano	5422	Hawks Prairie Rd NE	
2	40	Steve & Gloria	Morrison	5903	44th Way NE	
2	44	Bryan & Kim	Morris-Ward	6010	44th Way NE	
2	79	Ken & Sue	Munson	5302	Hawks Prairie Rd NE	
3	20	Neal & Doris J.	Nelson	4931	Foxtrail Dr NE	
1	25	Bruce & Kari	Nimmo	5734	Middleridge Ct NE	
1	20	Laura	Nolting	4112	Foxhall Dr NE	
2	69	Bonnie Waybright & Bryan	Nordlund	5606	43rd Ct NE	
5	2	Daniel & Emily	Olson	5108	46th Ct NE	
3	23	Kirk & Teresa	Olson	4919	Foxtrail Dr NE	
2	57	David & Gloria	Papiez	5043	Foxhall Dr NE	
3	12	Roger & Elizabeth	Pearson	6311	Foxtrail Ct NE	
3	1	Robert & Carolyn	Pendle	5406	46th Ct NE	
2	41	Ken & Susan	Powell	5937	44th Way NE	
2	39	Brad & Linda	Pruitt	5932	Foxhall Ct NE	
2	77	Cathy	Rivers	5503	42nd Ct NE	
2	48	Jennifer Hampshire Hibbard & Carol	Roffman	4522	46th Ct NE	
3	2	Harry & Laurie	Rosemond	5422	46th Ct NE	
3	18	Tim & Jeri	Ross	4943	Foxtrail Dr NE	
1	9	Allen & Susan	Schmidt	4033	Foxhall Dr NE	

Foxhall Sign-In Roster

Div	Lot	Fname	Lname	StNbr	StName	Signature
2	67	Loren & Carol	Schmidt	4435	Foxhall Dr NE	
2	75	Steven & Debbiee	Shaffer	5526	42nd Ct NE	
2	49	Laura	Shillam	4521	46th Ct NE	
2	37	Ken & Rosi	Short	5929	Foxhall Ct NE	
2	46	Mervin & Carol	Smith	4524	Foxtrail Dr NE	
2	76	Keith & Denise	Solveson	5506	42nd Ct NE	
2	56	Richard & Laurie	Sorenson	5105	Foxhall Dr NE	
1	22	Mark & Jessica	Stapleton	4016	Foxhall Dr NE	
4	35	Barbara Willie & Steve	Stentz	5022	Foxtrail Dr NE	
3	9	Lisabet	Tatum	4716	Foxtrail Dr NE	
2	78	Herman & Ariene	Tellez	5420	Hawks Prairie Rd NE	
2	62	Robert & Linda	Thompson	4745	Foxhall Dr NE	
1	23	Monika Wilder & Richard	Tullo	4002	Foxhall Dr NE	
1	8	John	Underwood	4021	Foxhall Dr NE	
2	82	Lance & Michelle	Vanderpool	5424	Hawks Prairie Rd NE	
2	68	Kirk & Susan	Veis	5712	43rd Ct NE	
3	15	Richard & Mary Lou	Wadley	4800	Foxtrail Dr NE	
3	6	Don & Susan	Wadsen	4615	Foxtrail Dr NE	
1	30	Sada Condon & Blair	Weidman	5702	Arrow Ct NE	
2	35	Carrie	Whisler	5915	Foxhall Ct NE	
3	14	Randy & Pam	Wimer	6348	Foxtrail Ct NE	
4	37	Diane	Zientek	5008	Foxtrail Dr NE	

Bylaw Ballot for 19 November 2015

Attachment C

Foxhall Community Association

A bylaw has been proposed to clarify the governing documents on how Association property shall be used. The proposed bylaw reads as follows:

Article VI; POWERS AND DUTIES OF DIRECTORS Sec.9. Foxhall Parks and Trails are for the exclusive use of residents, families and friends. Nonresident visitors must be accompanied by a resident when using Foxhall Parks and Trails. Foxhall Association members' businesses may not extend their business activities onto Foxhall Parks and Trails. Members' business invitees, customers, or patrons, whether in trade or in barter, are prohibited from using Foxhall Parks and Trails, even when accompanied by a Foxhall member.

Should this bylaw be enacted? (Initial or circle one of the following entries)

_____ Yes, enact the bylaw.

_____ No, do not enact the bylaw.

Sign and date below, then print your name and enter your street address

_____ Signature

_____ Date

_____ Printed Name

_____ Street Address

Division _____ Lot _____

Attachment 0

Summary of Ballots for 27 October 2015

A bylaw has been proposed to clarify the governing documents on how Association property shall be used. The proposed bylaw reads as follows:

Article VI: POWERS AND DUTIES OF DIRECTORS Sec.9. Foxhall Parks and Trails are for the exclusive use of residents, families and friends. Nonresident visitors must be accompanied by a resident when using Foxhall Parks and Trails. Foxhall Association members' businesses may not extend their business activities onto Foxhall Parks and Trails. Members' business invitees, customers, or patrons, whether in trade or in barter, are prohibited from using Foxhall Parks and Trails, even when accompanied by a Foxhall member.

Should this bylaw be enacted?

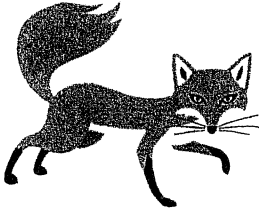
Yes, enact the bylaw.		No, do not enact the bylaw.	
# of votes in attendance <u>5</u>	# of votes by proxy <u>73</u>	# of votes in attendance <u>18</u>	# of votes by proxy <u>0</u>
Total Votes Yes	<u>78</u>	Total Votes No	<u>18</u>

Signature Coral L. Long Date 11-19-2015

Signature RJ Long Date 19 Nov 15

Signature Rose Elts Date 11-19/2015

EXHIBIT G



Foxhall Association Meeting: Bylaw Revisions

South Sound Elementary School

Tuesday, March 7th, 7PM

A few of the Foxhall Community Association Bylaws have been superseded by State law and that has left us with published Bylaws that are in conflict with the law. The necessary changes are minor but should be addressed to avoid future confusion. The Board also suggests one Bylaw change for improved governance in Foxhall that centers on the use of proxies. The change would disallow vague, general proxies that disenfranchise the grantor in favor of specific, limited proxies that specify the grantor's wishes.

In the following, each proposed Bylaw revision is presented in two ways: first the current language of the Bylaw and then the language of the proposed change in bold print.

As required by our Bylaws, Article X, these proposed changes will be addressed in order at the meeting and, after discussion of each, each voted on by those present at the meeting. Please reserve the evening and join your friends and neighbors in maintaining good governance in Foxhall.

Proposed Bylaw amendments to meet the Revised Code of Washington (RCW)

1) Bylaw Article V Section 2:

Current language:

Special meetings of the members may be called at any time by the president or a majority of the Board of Directors or by members representing **thirty percent** of the lots within the jurisdiction of the corporation. Notice of special meetings, stating the object thereof, shall be given by the secretary by mailing such notice to each member not less than **five (5)** days prior to the date on which such-meeting is to be held.

Proposed amendment to meet RCS 64.38.035:

Special meetings of the members may be called at any time by the president or a majority of the Board of Directors or by members representing **ten percent** of the lots within the jurisdiction of the corporation. Notice of special meetings, stating the object thereof, shall be given by the secretary by mailing such notice to each member not less than **fourteen (14) days nor more than sixty (60) days** prior to the date on which such meeting is to be held.

2) Bylaw Article V, Meetings

New section proposed, Section 6 to meet RCW 64.38.025

Within thirty days after adoption by the board of directors of any proposed regular or special budget of the association, the board shall set a date for a meeting of the owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the owners of a majority of the votes in the association are allocated or any larger percentage specified in the governing documents reject the budget, in person or by proxy, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the owners shall be continued until such time as the owners ratify a subsequent budget proposed by the board of directors. [Note: this is the language of RCW 64.38.025]

3) Bylaw Article VII, Section 3, Secretary

Current Language:

The secretary shall issue all notices and shall attend and keep the minutes of all meetings; he shall have charge of all corporate books, records and papers; **he shall be custodian of the corporate seal, shall attest the president's signature and impress with the Corporate seal all written contracts of the corporation**, and shall perform all such other duties as are incidental to his office.

Proposed amendment to meet RCS 64.38.035 (passed in 2014)

The secretary shall issue all notices and shall attend and keep the minutes of all meetings **and must make available to each owner of record for examination and copying minutes from the previous association meeting not more than sixty days after the meeting. Minutes of the previous association meeting must be approved at the next association meeting in accordance with the association's governing documents.** The secretary shall have charge of all corporate books, records and papers, and shall perform all such other duties as are incidental to his office.

Comment: We drop the language regarding the corporate seal and insert the language in bold above as that is the language of the 2014 change in RCS 64.38.035.

4) Bylaw Article IV, Section 4, Director Recall

Current Language:

The owners by a majority vote of the voting power in the Association in person or by proxy and entitled to vote at any meeting of the owners at which a quorum is present may remove any member of the Board of Directors with or without cause.

Proposed amendment to meet RCW 64.38.025

The owners by a majority vote of the voting power in the association **present**, in person or by proxy, and entitled to vote at any meeting of the owners at which a quorum is present, may remove any member of the board of directors with or without cause.

Comment: Little change here as the proposed change is a quote from state law and the current language is almost a quote. Somehow in copying the language of RCW 64.38.025 the word *present* and two commas were lost. This change simply gets the quote right (but note next change re proxies).

Proposed Bylaw change to improve governance in Foxhall

5) Bylaws, Article V, sec 5

Current language: A member may exercise his right to vote by proxy.

Proposed amendment to clarify proxy use and remove the potential for abuse that can result in a subversion of the electoral process: basically, we deny the use of general non-specific proxies in favor of limited, specific proxies.

A member may exercise his right to vote by proxy. **Said proxy must be limited and specific in nature and meet the following conditions:**

- a) **be signed and the signature dated,**
- b) **declare the subject involved and the member's intent regarding that subject,**
- c) **be limited in duration to the Association meeting or its continuation at which the subject is to be decided,**
- d) **be non-transferable,**
- e) **be revocable by the grantor at any time prior to actual exercise of the proxy.**

In addition, a member may hold no more than two proxies at any time

Argument for the change	Argument against the change
<p>Allowing unlimited proxy use can lead to a undemocratic situation with voting power held in a few hands. The Arizona legislature has forbidden all proxy use in HOAs as they had so many lawsuits due to proxy abuse with small groups, often the Board itself, controlling outcomes via proxies</p> <p><i>Proxy voting</i> is incompatible with the essential characteristics of a deliberative assembly. For these reasons, Robert's Rules now disparages all proxy use.</p> <p>But our bylaws allow proxies, and they certainly have a legitimate use when one would like to cast a vote for a known issue or board candidate but cannot attend the meeting.</p> <p>The solution is to require limited proxies as outlined above.</p> <p>Note that proxy condition B above allows the grantor virtually all actions open to those in attendance. For example, the grantor might specify that the grantee is to make a motion or nominate someone for office in the grantor's name.</p>	<p>This bylaw should NOT be changed. Please vote NO for the following reasons.</p> <p>A member may exercise his right to vote by proxy, that is, a member may give a general proxy to a neighbor to vote on their behalf A proxy should not be limited to "declared subjects" because proposals are often modified during meetings. Proxies that don't exactly match a proposal run the risk of being disallowed.</p> <p>Because of the animosity displayed at association meetings, many residents are reluctant to attend. Others can't attend because of illness, child/elder care or travel. Finding a like-minded resident that will go to a meeting can be difficult enough without limiting how many proxies that resident might have. This "limiting" stifles the voting rights of many association members.</p> <p>Other matters regarding signatures, dates, expiration etc are covered by state law.</p> <p>Arizona's proxy ban happened because of snow-birding and taxation issues. We live in Washington state, not Arizona.</p> <p>We had the right to vote by proxy when we bought our property The proposed change would limit that right.</p>

EXHIBIT H

Limited Proxy Form

I, the undersigned, _____
(print)

residing at _____ Div _____ Lot _____

being a Member of The Foxhall Community Association and entitled to vote at General or Special Meetings hereby appoint _____

as my proxy to vote as specified below on my behalf at the meeting of the Association to be held on _____ (date) and at any adjournment of that meeting. This proxy is non-transferable and I may revoke this proxy at any time prior its exercise at the meeting.

signature: _____ date: _____

Cast votes only as I specifically instruct in the following matters:

	In Favor	Opposed
Resolution #1 <i>(enter resolution language here)</i>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution #2 <i>(enter resolution language here)</i>	<input type="checkbox"/>	<input type="checkbox"/>
etc.		

OR, if an election

Please check the name(s) you would like to see elected to the Board of Directors. You may vote for (enter number of open board positions) people.

_____ First Person	_____ Second Person
_____ Third Person	_____ Fourth Person
_____ Fifth Person	_____ Sixth Person

OR, if presenting a motion

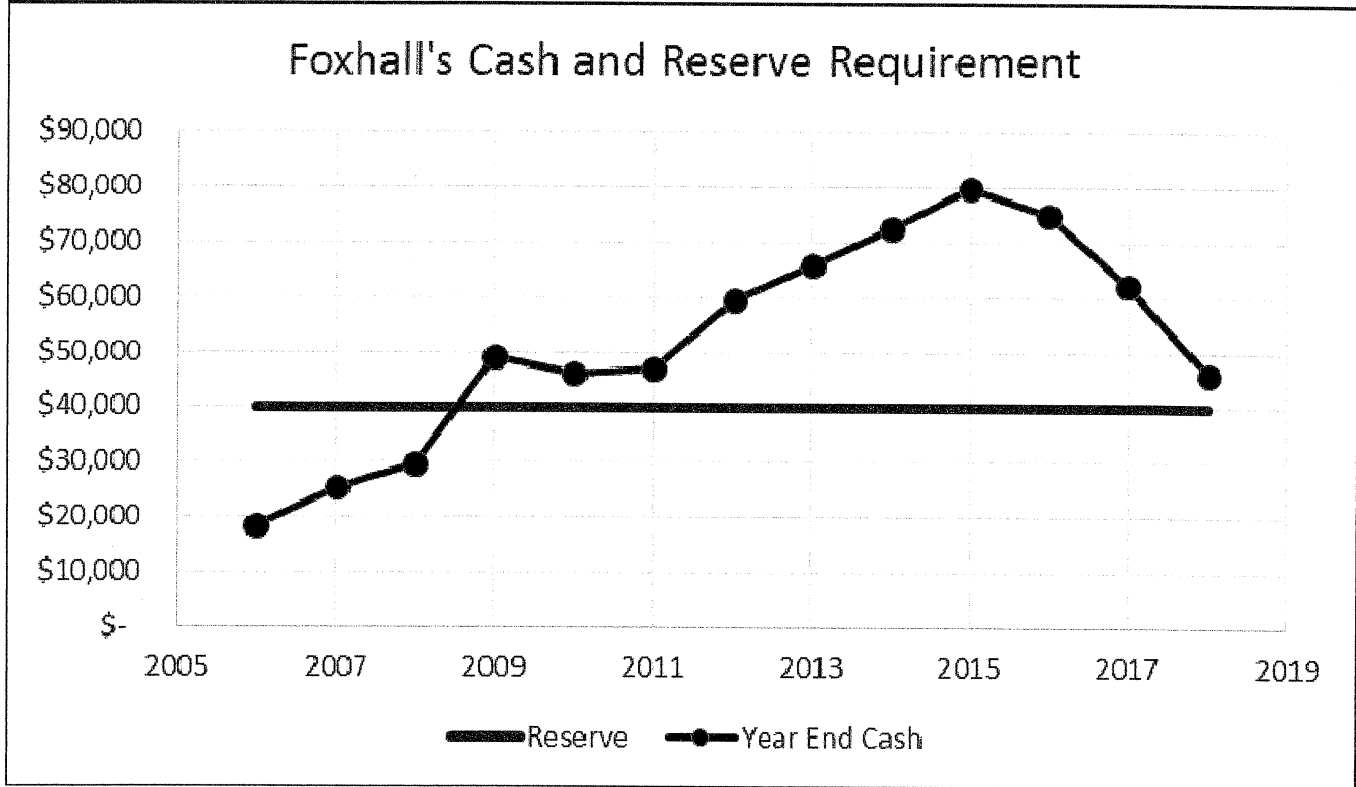
Instruction: Please present the following motion in my name to the Association members:

(enter motion language here using reverse side if needed)

EXHIBIT I

The Budget and Cash Balance

There are no surplus funds in Foxhall's Cash Balance! Our savings includes a **dedicated \$40,000 in RCW 64.38.065 Reserve funds** for replacement of capital assets (i.e., retention pond, playground equipment & cyclone fencing, etc.) These reserves are not specifically shown in our savings figures. Sound fiscal management for a 122 lot community requires more than funds for current maintenance, operation and projects.



Reserve funds protect community residents. Foxhall Bylaws state residents can be assessed for all unfunded Association financial obligations—with payment due in 30 days, plus 12% interest for delinquent & associated fees.

If the Board passes the proposed 2017-18 budget of \$32,630. there will be insufficient funds to develop next year's budget without using reserve savings.

There are no emergency safety issues on the trails. Expenditures need to be curtailed and less focused. Improvements should be done over a reasonable schedule. In 2006 Foxhall's saving's dropped to \$18,000. Dues were raised. It took nine year to accumulate the Reserve Fund established by the Board in October 2015.

When will this excessive spending end? The Reserve Fund is sound financial management for an HOA.