



PLCOA  
PO Box 206  
Coolin ID 83821

## Priest Lake Cabin Owners' Association, Inc.

John Brumley – President, Randy Absalonson – Vice President, Maggie Drummond – Treasurer  
Sherry Lee - Secretary, Greg Gfeller, Jeff Johnson, John Mandere, Matt Rudolf.  
Trustees: Denny Christenson – President Emeritus, Jennifer Lehn, Jim McLean, Bill Symmes,  
Jerry Whitehead, Bud Belles – Website Admin, Chuck Lempesis-Attorney

PLSLA Annual Meeting Minutes

7/15/2017 – 9:00am

Inn at Priest Lake - Coolin, Idaho

Board/Trustees Present: George Nethercutt, President; Randy Absalonson, Bud Belles, John Brumley, Denny Christenson, Maggie Drummond, Greg Gfeller, Tom Hartanov, Jeff Johnson, Sherry Lee, Jennifer Lehn, John Mandere

Absent: Jim McLean, Matt Rudolf, Bill Symmes, Jerry Whitehead

The Annual Meeting of the Priest Lake State Lessees Association was called to order by President George Nethercutt. George welcomed PLSLA members and introduced Officers, Board Members, and Trustees of the Association. The new slate of officers was introduced as follows:

President – John Brumley

Vice President – Randy Absalonson

Secretary – Sherry Lee

Treasurer – Maggie Drummond

George thanked our guests for coming, introducing Sid Anderson and Mike Murphy from Idaho Dept. of Lands in Boise who will address leasing plans and VAFOs after 2019; Sandpoint Attorney Ford Elsaesser on how we might address Bonner County Assessor's over-assessment of land values; Jeff Berglund of Numerica Credit Union will talk about financing for VAFO participants. George recognized Board member Jeff Johnson, State Bank Northwest executive; and past President Bud Belles, with thanks for his invaluable service on IT for PLSLA.

### **PRESIDENT'S REPORT:**

George noted that there have been no contentious issues with IDL this year as more lessees have gained ownership of their lots through the VAFO, and we'll soon have more owners than lessees served by our Association. A proposed name-change for our Association will be voted on today. PLSLA did not have any large expenditures in the past year except for a \$2500 fee to Association attorney Chuck Lempesis for working with our PLSLA subcommittee to investigate and address over-assessment of land values by the Bonner County Assessor on lots that have been purchased through the VAFOs. This issue will affect more and more PLSLA members as lessees become cabin owners, and the best time to address the issue is now.

### **2016 ANNUAL MEETING MINUTES:**

George asked for a motion to approve the Minutes of the 2016 Annual Meeting of PLSLA (printed copies were available to attendees). The motion was moved, seconded, and passed.

### **TREASURER'S REPORT:**

Maggie Drummond reported that our Association has a balance of \$46,542.10 in checking and savings accounts. PLSLA's Profit and Loss summary from 1/1/2017 through 7/7 2017 showed a net loss of (\$1,717.19). This reflects 1) \$2,500 in Legal Fees paid to Attorney Chuck Lempesis for investigation and recommendations on Bonner County taxation and the over-assessment of land values on lots purchased in the VAFOs since 2015, and 2) most of the 2017 dues have not yet been paid.

Maggie noted that dues were raised from \$75 in 2016 to \$100 in 2017 in anticipation of investment on behalf of cabin owners (present and future) in resolving our common issues with the Bonner County Assessor.

George announced that the PLSLA Board recently approved start-up money in the amount of \$10,000 to Sandpoint attorney Ford Elsaesser to prepare a suit representing former lessees against Bonner County. A motion to approve the Treasurer's Report was seconded and passed.

Louise Campbell stated that she reviewed the PLSLA financial reports for FY2016 on 6/2/2017 and found they conform to accounting and financial reporting standards. She reported them to be accurate, organized, and complete.

### **BYLAWS DISCUSSION INCLUDING PROPOSED NAME CHANGE TO "PRIEST LAKE CABIN OWNERS' ASSOCIATION" (PLCOA) - Copies of bylaws changes have been provided.**

The proposal, as presented by George, was moved and seconded. Discussion followed. George said the Board decided this change was necessary to address the current situation where soon more than half of lessees will be owners of their lots. Most of the remaining lessees will become owners by 2019 and beyond. Those who wish to remain Lessees are still represented in this change, as all current PLSLA members are *Cabin Owners*. Future decisions about allowing non-lessees and non-former-lessee cabin owners into the organization will be left to the Board. This may become a two-tier system of voting rights so issues that pertain to one group may be voted on only by that group of cabin-owners. We plan to stay clear of involvement in various side-issues of owners around the lake that do not have to do with the interests of Lessees or Former Lessees. Currently, the issue of Taxation is one that unites property owners. In response to a question, Denny Christenson affirmed that Lessees have certain issues and Owners have other issues, so there may be two classes of voting rights. We want to keep our mission to serve Lessees and Former Lessees. Ideally, we might join with other associations, e.g. HOAs, to work on common issues. Dues will stay the same at \$100 annually.

Question: Who is eligible for PLCOA membership under the new wording "at or near Priest Lake"? George responded that we anticipate that will mean mainly lake-front and secondary lots. Chuck Lempesis suggested the wording for Section 1 revisions so that the PLCOA Board will have leeway to make future decisions about membership.

Question on possible difficulty with the IRS on changing our name: No problem is anticipated. It should be routine. George gave his own recent example.

The motion to approve Bylaws changes and rename PLSLA the “Priest Lake Cabin Owners’ Association” (PLCOA) carried unanimously.

### **Idaho Department of Lands Update and Discussion**

Sid Anderson has been with IDL for 6 years, and has had oversight duties for every VAFO (Voluntary Auction for Ownership) since they were introduced in 2014.

He reiterated that IDL’s intention is to give every lessee an opportunity to participate in an auction for ownership by 2019.

Mike Murphy noted that IDL is currently preparing a proposal for the Idaho Land Board to hold additional VAFOs through the 2020 - 2024 period, though probably on an as-needed basis, not annually. PLSLA (PLCOA) will have the opportunity to give their input on this proposal before it goes to the Land Board. Additional VAFOs from 2020 onward will be voluntary.

The fee structure for VAFOs is expected to remain the same.

The next two auctions are expected to be held in August.

Pre-application meetings for the 2018 VAFO will be starting on July 24<sup>th</sup> in Sandpoint.

Mike Murphy has been with IDL for 15 years. He discussed future strategies that emerged in the Land Board Staff Summit in June:

*Leases:* IDL will recommend to the Land Board in October to move ahead in renewing expiring leases through 2024.

*VAFOs:* IDL will recommend the Land Board hold another VAFO in 2020 for lessees who are not currently in the 4-year cycle that ends in 2019. There will be no forced auctions.

*Rent Appraisals:* Idaho has a 5-year process for rent appraisals. IDL’s proposed plan for the appraisal process will be referred to the PLSLA (PLCOA) Board for comment.

*Lease Renewals:* IDL will recommend to the Land Board that lessees will be offered lease renewals to 2024. The *Conflict Auction* will apply to all lease renewals.

### ***Questions for Sid Anderson and Mike Murphy followed their presentation, including:***

Question on the validity of Priest Lake properties appraisals

Question on Title Insurance: Why does Idaho as Seller refuse to pay ½ of the Title Insurance policy as is the custom?

Answer: It’s IDL’s prerogative.

Question: Why does Idaho get to choose the Title Insurance Company? Is Title Insurance necessary?

Answer: Sid said there are issues re: titles on leased properties that need to be cleared. If buyers refuse Title Insurance, they still have to pay a cancellation fee to First American Title Co. Some work is already done up-front.

Question: If you dropped out of the 4-year auction cycle, can you still get in a VAFO by 2019?

Answer: “No”. You will have to wait until after the next auction cycle is approved by the Land Board, possibly 2020.

Question: Why do VAFO appraisals predictably go up each year?

Answer: This depends upon the 3<sup>rd</sup>-party appraiser's study of market value.

Question: IDL has used the same appraiser for 5 years. At what point is there a conflict of interest?

(No answer)

Question: George asked if IDL has input and influence on the appraisals.

Answer: IDL reviews the appraisals per USPAP, but no one exerts influence on the appraiser to change the results.

Question: How is unleased land marketed, & how does it come up for auction?

Answer: This land is marketed and will be included in an auction if someone has expressed interest in purchasing it. There are applicants for 3 unleased lots in this year's VAFO.

Question: Will IDL notify a lessee if there is interest in their site?

Answer: Corbett-Bottles is notified via Wi-Fi when lock-boxes are used. Agents must notify a lessee before showing their property.

Question: Re: Future land sales--

Answer: The Land Board has given no direction yet. Their decisions will be shared with PLSLA (PLCOA) Board, but the Land Board will use good business decisions.

Question: Regarding the 2017 Administrative fee for the VAFO—

Answer: The fee is 5%, with an initial 1% and an additional 4% upon closing.

### **2017 VAFO: Resources for Financing – Jeff Berglund, Numerica Credit Union**

Jeff, a veteran loan officer and 'Priest Laker', has been arranging financing for unique Priest Lake properties for many years. He summarized pertinent points for VAFO buyers to consider:

*Credit Reports* are good for 90 days, so if you order yours now, it will still be good through the August VAFO.

*Shop Around:* Fannie Mae qualifies this type of sale as a "refinance" with 80% Loan-to-Value. The owner's equity in their Cabin is their Down Payment.

*Appraisal Issues:* Numerica, for one, accepts deviations from what might usually be "standard" building practices in their appraisals. They allow what is "*Common and Typical for the Area*". For example: 1) Use of "Water-draw" from Priest Lake as the cabin's sole water source, and 2) Cabins built on concrete blocks.

Question: Does the bank do its own appraisals, and what if they differ from the IDL appraiser's value?

Answer: In Numerica's case, the bank uses the lesser of: a) your purchase price, or b) Numerica's appraised value of your property.

\*\*\*In keeping with our limited time schedule, Jeff offered to stay and meet with lessees outside the meeting room to answer further questions on an individual basis.

### **Bonner County Tax Assessment – Discussion of Taxation Issues**

County tax assessments have become a big problem for new VAFO lot owners. Following the first VAFO in 2014, new property owners were shocked when they received their first Bonner County tax assessments. Expecting assessed values to approximate the price they paid for their properties (i.e. "recent sales"), they were stunned and dismayed to see assessments jump far above the actual sales price. Appeals were quite

successful in 2015, and assessments were rolled back. *However, 2016 saw a repeat by Jerry Clemmons' Bonner County Assessor's office, and the appeals were largely turned down.*

Hearing many complaints, the PLSLA Board set up a subcommittee composed of John Brumley, Denny Christenson, Randy Absalonsen, and PLSLA attorney Chuck Lempesis, to research and study the issue. This group reported their findings to the Board, including a letter from Chuck indicating that there should be grounds for filing a lawsuit on behalf of those who had exhausted the appeal process in challenging their assessments.

The PLSLA Board voted on July 8<sup>th</sup> to contribute \$10,000 in start-up money toward defending our members from this unfair taxation. Our lead attorney will be Sandpoint Attorney Ford Elsaesser. Ford also has an office in Priest River and has represented many taxpayers making appeals to the Idaho Tax Commission State Board of Equalization. He "educated" us last year on this issue at our 2016 Annual Meeting. Chuck Lempesis will be co-counsel. Incoming PLSLA President John Brumley described this as a "counter-attack" against Bonner County's "attack" on new lake-front owners whose properties have never before been on the county tax rolls. It would be ideal if 50 – 60 owners joined the suit, though the timeline is tight and it seems that the only owners eligible to join the lawsuit are those who have exhausted the appeal process and been turned down by the BOE (Board of Equalization).

*Ford, Chuck, and our sub-committee identified two criteria that contribute to the wide disparity between VAFO sale prices and Bonner County assessments and provide substance for a lawsuit against the Bonner County Assessor:*

\*1) Both the State of Idaho and the appraisers who work for IDL use a standard "point-to-point" line to measure the lakefront-footage (ff) of a property. Assessor Jerry Clemmons instructed his Bonner County Assessor's office to use a "meandering line" to measure front footage, meaning topographic variations such as rock outcroppings or human-made rock jetties all contribute to the front footage total.

\*2) The Bonner County Assessor's office refuses to use VAFO sales prices on Priest Lake as "comparable sales" in determining assessed value. They claim that at an IDL "auction" the buyer can purchase property at less than fair market value and therefore it is not a qualifying sale. This dismisses the fact that the VAFO sales price *never* goes below the appraised value, and as Elsaesser noted, the Idaho constitution requires that State (IDL) property is never to be sold for less than full market value.

Ford Elsaesser gave an example of an outrageous appraisal: A lot in Outlet Bay with no utilities, major terrain issues, and no access other than by boat, was measured at 330 front feet "pin to pin" and appraised at \$190,000 by IDL for the VAFO. The Bonner County Assessor's office valued the lot at \$6,000 per front foot and assessed the property for taxation at over \$1,000,000. On appeal, this situation was one of the "absurdities" that was corrected by the Assessor.

Ford Elsaesser went through the history of appeals on taxation for VAFO buyers:

In 2015 appeals to the County Commissioners were successful because the County Commissioners accepted the VAFO value.

In 2016, the County Commissioners adjusted "absurdities" in valuations. However, in 2016 they accepted the Bonner County Assessor's "Meandering Line" valuation and turned down the rest of the appeals.

Appeals to the Idaho State Tax Commission Board of Equalization yielded the same results. Ford worked on four of those cases. *One of his cases which was filed in Bonner County District Court is still on appeal.* (As a side note, Bud Belles adds that the Idaho.gov website -- <https://bta.idaho.gov/ad-valorem-decisions/> -- shows that more than 20 taxation appeals for Residential Property from Bonner County were processed by the BoE for 2016.)

Solution: Ford explained that filing suit in District Court is our only viable strategy. Our appeal will be based on: 1) Bonner County Assessor sticking with the meandering line valuation vs point-to-point, and 2) The front footage valuation they use is unrealistic.

**\*Filing must be done within 30 days of decision /notification of appeal being turned down by BoE.**

\*Filing fee is \$221.00

\*Individuals must file these appeals – they can't be filed as a class-action lawsuit

**\*After all individuals have filed their appeals in District Court, Ford Elsaesser will move to Consolidate all Appeals.**

\*Costs will include appraisals and deposing appraisers. Cost estimate is around \$40,000 for the combined suit. With 30 people or more filing suit and the PLSLA's \$10,000 seed money, it will be cheaper for everyone.

**--We need a critical mass of appeals. The judge will consider the Idaho State appraiser's valuations versus the Bonner County Assessor's assessments and reconcile them.**

**--It is important to move quickly and appeal within 30 days. A successful appeal is good for 2 years.**

**--A sign-up sheet was sent around for filing appeals. Ford Elsaesser's offices (Priest River and Sandpoint) are there to help. Contact Ford at: [ford@ejame.com](mailto:ford@ejame.com)**

As background information, Ford explained that the Bonner County Assessor is a separate body from the Bonner County Commissioners. No one has run against Assessor Jerry Clemmons in the past. His term is up in November 2018, and we don't know if he will run again.

He noted that the VAFOs are producing 50 to 60 fee simple lots per year *that have never been taxed.* This is a windfall for Bonner County.

Building improvements from Bonner County typically get low appraisals, while land typically gets high appraisals.

Ford said that an average VAFO lot that sold for \$500,000 would be assessed by the Bonner County Assessor at \$700,000 - \$800,000.

According to Elsaesser, comparables are more difficult to track in Idaho because disclosure of purchase prices are optional. (In Washington State, for example, all purchase prices are disclosed.) *To get their comparables, Bonner County Assessor's office does its own breakout of front footage value and improvements. By (arbitrarily) assigning lower values to improvements, the front footage value of the land is higher.*

Incoming president and sub-committee member John Brumley encouraged Association members to “Fight the Fight Now!”

Discussion and Questions for Ford Elsaesser:

Question/Comment: Steve Rice, attorney, noted that the Statute of Limitations regarding the Board of Appeals gives only **30 days from the** date of the decision at the end of the hearing. Therefore, file ASAP! You have to exhaust appeals before you can file suit. (Bonner County Commissioners - Board of Appeals, Idaho; Idaho’s Board of Equalization)

Answer/Comment: Ford is 90% sure that if you didn’t appeal this year, you aren’t eligible to join the lawsuit. There have been no appeals from Pend Oreille River, Hope, or Priest Lake fee owners for a long time. Overall, appeals over Bonner County assessments have been few.

Q: Can we sue to recover fees in this suit?

A: Probably

Q: Will County assessor go back in 2 years to what they’re doing now?

A: Idaho election battles are fought at the Republican Primary level, not at the final election. Ford had hoped Jeff Connolly’s election would change the Board, but it hasn’t happened so far. Local example of rollback of land values by the Assessor’s office: Jeff Weimer (sp?) of Priest Lake noticed that his timberland had a blanket assessment of “good” rather than the previously used “poor – moderate – good” categories. He knew that was incorrect for his timber holdings, and caught them on this. The Assessors had to roll it back for him, and for all the other timber holdings in Bonner County.

Comment: Randy Absalonson said the Key to our complaint re: valuations is that IDL’s Appraiser is mandated to get the *highest* Fair Market Value for State lands in the Voluntary Auction for Ownership (VAFO).

Response: Ford reiterated that we need to get a Court to agree.

Q: Regarding the methodology and comparables used by Bonner County Assessor, are there Certified Appraisers working for the Assessor’s office?

A: The County has several certified appraisers who sign off on the assessments

### **Website Update – Bud Belles**

Check with Bud Belles after the meeting if you’re unsure how to get onto the PLSLA website

### **Fire Protective Services – Peggy Smith, Coolin-Cavanaugh Bay Fire District and Dallas Gray, Fire Commissioner**

Peggy Smith spoke about fire prevention in Wildland settings, and the Evacuation process which was partially put into effect during the wildfire on the West side of Priest Lake in 2015. Evacuation notices escalate in urgency through Levels 1, 2, & 3 – “Ready, Set, Go”

Level 1 = Plan, gather necessities (important papers, etc.)

Level 2 = Pack up

Level 3 = Go

--There is currently a wildfire burning North of Priest Lake in a mountainous area bordering Idaho and Washington. The area is unsafe for ground crews and plans are being made as to how to deal with it.  
--A team from the Coolin-Cavanaugh Bay Fire District will be surveying homes in the area to assess risk and make recommendations for fire prevention.

Recommendations will include:

- \*Eliminate “fuel loads” within 3 feet of structures. That is, no firewood, propane tanks, gas cans or shrubs (“green gas cans”).
- \*Beyond 3 feet of structures – No laddering fuels. Trim up trees 10 feet above the ground. Clear gutters. Clear pine needles.
- \* Keep in mind that most fires start from embers.
- \* (The typically recommended 50 foot green space surrounding structures is not very realistic in the North Idaho woods...)

This year is the 1967 Sundance Fire Commemoration – on this 50 year anniversary of the fire, the deaths of two Firefighters will be commemorated.

Sundance Fire Commemorative T-shirts are available for purchase.

Peggy put out a call for volunteers, emphasizing that there are lots of options for volunteers in addition to actual firefighting, e.g. educating the public on prevention of fires or fund-raising. She provided pamphlets on fire protection and prevention of wildfires, etc. for our group.

Peggy Smith and Denny Christenson continue working together to bring fire protection to the East Side of Priest Lake, specifically the five neighborhoods – Hunt Creek, Horton Creek, Pinto Point, Cape Horn, and Powerline – that lie outside the boundaries of Coolin-Cavanaugh Bay Fire District and North of the Narrows Fire District.

The plan is to Annex this area into the Coolin-Cavanaugh Bay Fire District or possibly start a new fire department/district for this area. They are hoping to have options laid out by this fall.

Denny Christenson reported that the Fire District Levy, which is based on assessed improvement values, came in less than anticipated so financing this venture may be an issue. (Bonner County’s method of valuating buildings/improvements on the low side is a factor in this.)

As almost no one in that District lives there year-round, it’s possible that two people will have to be hired to live there and serve the District.

On the positive side:

- \* Denny reported that 13 acres that is designated for “Community Use” on Pinto Point can be home to a new Fire station.
- \* In surveys and meetings, nearly 100% of people in the District approve of the measure.
- \* In response to a question, Peggy affirmed that the bridge over Indian Creek is rated to support the weight of Fire Engines and equipment. (IDL uses it for heavy trucks and equipment as well).

**Call for potential Board members/Officers**

George proposed changes to the Board and Trustees for the coming year. Randy Absalonson and John Brumley will become voting members on the Board of Directors, and Bill Symmes will move to a Trustee position. George asked for a motion to accept the Board/Trustee changes. It was moved, seconded, and passed.

As George's term as President ends, he has decided not to remain on the Board next term. He will be buying his lot in the August VAFO, but lives on the East Coast and is only out West one week per month, which makes it difficult to regularly attend meetings.

John Brumley, incoming Board President, gave George Nethercutt a huge "Thank You" for his leadership and service on the Board these past years.

The meeting was adjourned by George Nethercutt.

Respectfully submitted,

Sherry Lee, Secretary