

FORMING A MAINTENANCE ASSOCIATION IN KEYES FERRY ACRES –

WHAT WOULD THAT MEAN?

If you own property in Keyes Ferry Acres (KFA), you should have received a packet of information about establishing a property owner's association that would take responsibility for the maintenance of the roads and common areas.

Like many KFA residents, you may feel that the roads should be better maintained and wonder what might be done. To the question "why aren't the roads in better shape?" the short answer is - money. Not enough is being collected. That won't change if we don't consider some new way to manage the roads. The packet proposal offers one possible option. Admittedly the packet is challenging to understand, so a small group of residents said we'd make an effort to explain the main points in everyday language. This overview is intended to help explain the packet in plain language, but is no substitute for reviewing the legal documents you've received. (None of the information provided in this posting should be considered as giving legal advice or necessarily 100% correct). Here are a number of questions about forming a maintenance association that may have occurred to you:

Q. Just what does the packet of paperwork say?

A. The packet outlines a proposal to form a non-profit corporation that will serve as a Maintenance Association to oversee KFA road upkeep and care. The organization,

Keyes Ferry Acres Maintenance Association (KFAMA), would take over ownership of KFA roads and the common areas such as the ponds and river access. A map included in the packet shows all KFA lots, roads and common areas.

Q. Why isn't there enough money to fix and maintain the roads?

A. The main reason roads are in such poor condition is that many KFA property owners haven't paid their annual road maintenance fee. In order to solve this problem, Mr. Snyder is trying to find an equitable way for all KFA property owners to contribute a fair share to maintain the roads and common areas. Under the current arrangement, Oak Meadow, LLC, (OMLLC) as a private corporation, has no easy way to get delinquent payments from lot owners. In a typical year, OMLLC receives about \$30,000 in fees from property owners and, while the roads have been plowed, that isn't nearly enough to fix and maintain the roads.

Q. How would it be different with KFAMA?

A. Fees collected by KFAMA would be used solely to support road and common area maintenance. The fees would be set by vote of all lot owners and **we would decide** how the money would be spent by vote of the majority. **One vote will be allotted for each lot owned and decisions will be made by majority vote.** As a not-for-profit corporation, KFAMA will have a simple legal way to collect road maintenance fees not available to a for profit corporation like OMLLC.

Q. Will KFAMA have the power to tell me to cut my grass or paint my house?

A. No, it is NOT a Homeowner's Association; it is strictly limited to road and common area maintenance.

Q. Who will belong to KFAMA?

A. If you own a lot, you will be a member of the Association. Through the proposed by-laws of the Association, each lot owner will have a say in KFAMA. The proposed by-laws are included in the information packet sent by Mr. Snyder. In all KFAMA matters, each lot is entitled to one vote.

Q. How does KFAMA get started?

A. There is a legal process, but briefly the answer is that a petition from KFA lot owners representing 60% of all 750 KFA lots has to be presented to the Jefferson County Commission for their approval. If approved, other things then have to happen that are fully described in the packet provided by Mr. Snyder. **The packet sent to you includes a petition to form KFAMA. Please complete the form, sign it and mail it in.**

Q. Why is Mr. Snyder doing this?

A. Oak Meadow will not receive any compensation for giving ownership of the roads and common areas to KFAMA. But Oak Meadow, LLC, one of Mr. Snyder's companies, does own 350 lots in KFA. Most of them were purchased from the original developer, Howard Speaks. At the same time, OMLLC also purchased the roads and common areas from Mr. Speaks. Consequently, Mr. Snyder has a large stake in the quality of life in KFA and sees better road maintenance (in addition to well maintained community water systems) as one way to make a big improvement.

Q. Sure, but once the roads are fixed doesn't he stand to make a lot of money selling his lots?

A. There is that possibility, but all of Mr. Snyder's lots are unimproved and the return on his investment will take a long time and will likely be quite modest. If the value of his lots eventually goes up because of better roads and appealing common areas, then so will the value of all real estate in KFA. Each lot owner will benefit.

Q. Well, if he's got 350 lots, can't he get anything he wants with 350 votes?

A. Oak Meadow, LLC owns 350 lots (47% of all 750 lots). That does not meet the threshold of 60% of votes required for County Commission approval of the petition. In terms of Association business, it also means his 350 votes don't automatically form a majority of votes. But there is also an inbuilt check and balance on that power. For instance, it's not in his interest to favor an assessment of fees that most of us might find too high, since Oak Meadow, LLC would also be responsible for that proportionally higher assessment. The best interests of the community presumably serve his best interests as well.

Q. Care of community roads and common spaces involves tremendous responsibility: money handled, contracts established, billing collected and bills paid, plus managing complaints from lot owners. Who is going to handle all that?

A. How KFAMA's business would be handled would be up to a majority vote of lot owners. But as an all volunteer organization, it would be better to hire a property

management company to take care of things. Locally available professional management companies can be hired expressly to handle these various and demanding tasks (hiring contractors, handling administrative tasks such as billing, pursuing delinquent payments, preparing an agenda for board meetings, providing annual audited financial reports, securing adequate insurance coverage, etc.). A management company could be hired and directed by the Association Board, but the management company would perform these many heavy duty tasks.

Q. What if there is no KFAMA?

A. The condition of the roads and common areas will gradually get worse. Property values will be negatively affected and the cost of maintaining our private vehicles will rise. If the roads get bad enough, very likely it will be more difficult to get bank loans to buy property in KFA.

Q. I don't mind driving on rough roads; I don't care how common areas look; and I don't plan on selling my house. Why should I sign on for this?

A. If KFA roads seriously deteriorate, there's an issue of potential liability for each lot owner. It's a legal thing and fairly complicated, but a condensed explanation is that: OMLLC presently owns title to the KFA roads and common areas. But simply by virtue of our longstanding use of KFA roads, within the legal realm, lot owners are understood to have "easement," meaning an established right to use the roads. While easement allows us rightful use of KFA roads, it comes with certain obligations. In law, it means that OMLLC has title to the roads but we—every lot owner—is responsible for a share of their care and costs. Because of this legal status, theoretically lot owners could be sued if

someone were to die or be severely injured because of a car accident due to poor road conditions.

Q. Couldn't this still happen with KFAMA?

A. A full explanation would wade deep into the legal thicket, but the short answer is that it would be far less likely. KFAMA would be required to carry liability insurance and, if all goes well, could show good faith effort in maintaining the roads.

ONE MORE TIME – *you should read the packet received from Mr. Snyder and seek legal counsel if you have questions or concerns about KFAMA or your rights and responsibilities as a KFA lot owner. And, send in your petition!*

Q. One last question, who are you guys?

A. Not intended as an exclusive group, we're simply starting small with five of us who happen to be long term (30+ years) residents of KFA and want to see the roads in good repair. Recently, we met with Lee Snyder for over two hours to discuss KFAMA and have our questions answered by Lee and, by conference call, the attorney (an expert in WV subdivision law) who drew up the legal documents. Due to both the conscientious snow removal by OMLLC and the dramatic improvement in our KFA water system accomplished by Mr. Snyder's utility company, Jefferson Utilities, we are persuaded that his proposal deserves respectful consideration. **We have no connection to Mr. Snyder or Oak Meadow, LLC** other than paying our annual road maintenance fee and monthly water bill. Mr. Snyder will continue to coordinate efforts to create KFAMA and be the point of contact for any questions or concerns.