

Approved

Agate Creek Preserve Homeowners Association  
Minutes of the Annual Meeting of Members  
November 13, 2013

The Annual Meeting of the Agate Creek Preserve Homeowners Association was duly called to order and held beginning at 3:00 pm on Wednesday, November 13, 2013, at the Wells Fargo Bank, Steamboat Springs, CO. Rick Dowden, President of the Association, served as Chairman and Nancy Jarchow, Secretary of the Association, recorded the minutes. The chairman opened the meeting and asked for roll call of members, which showed the following:

Members present in person: Ted and Sue Swain, Joe and Libby Robbins, Shine and Russ Atha, Rick Dowden, Cheri Trousil, and Nancy Jarchow.

Members present by phone conference: Bill Keith.

Members present by proxy: Randy and Connie Dean, Phil and Sheila McClure.

Rick announced there was a quorum present. The Chairman then turned to the minutes of the October 17, 2012 Annual Meeting which had been distributed to all members. Motion was made, seconded and unanimously adopted to approve the minutes.

Election of Directors. The Chairman stated the next item for action was the election of six Directors to the Executive board, each to serve a one year term and until their successors are elected at the next ensuing Annual Meeting. Rick reported that he had solicited indications of interest in serving on the Board from all Members and had received indications of interest only from the currently serving Board members except that Ted Swain had suggested that Sue Swain take his place on the ballot. Motion was thus made and seconded to nominate Russ Atha, Randy Dean, Rick Dowden, Bill Keith, Sue Swain and Cheri Trousil to serve as members of the Executive Board for the ensuing year and until their successors are elected at the next ensuing Annual Meeting. Those members were unanimously elected.

First Meeting. The Chairman pointed out that it was a requirement of Colorado law that the first meeting of the newly elected Board be held within 10 days of the Annual Meeting. It was agreed to hold that board meeting immediately following this Annual Meeting.

Treasurer's Report. Joe reviewed the proposed budget for 2014 which is based on 2013 numbers with a few adjustments including increases for administrative services by Commercial Property Group, snow plowing based on expectations for this winter, and insurance. He reported that water usage operating costs were lower than anticipated and for budget purposes they had been adjusted accordingly. Joe reported the accounts receivables were all current, reserves for general funds and water and have been collected and are held in separate accounts and overall the HOA financial situation is in good shape. It was pointed out that in accordance with Colorado law, the budget as presented had been approved by the Executive Board and was now being presented to the Members for ratification.

Motion was made, seconded and approved to ratify the budget as voted by Board.

Water Report. Nancy reported the water system is operating well. In the past year we've installed a new auto dialer and new chlorine pumps with a back-up system. Bruce Thompson, water administrator, is in the process of replacing a few segments of pipe and fittings in the pump house and has called Bob Brown to check one of the pumps which total costs should be under \$1,500.

Bruce has detected a break in one of the control cables which runs from the pump house to the tank and signals the audio dialer when the pump fails. Although he stressed there are no serious problems, he said that detecting the exact location of the break in the line will be difficult and suggested we consider converting to a solar powered radio transmitter system in the future. Conservative cost is less than \$15,000 and Bruce will provide a closer estimate for us soon.

Third quarter total flow for the pump house was 703,940 gallons and house meter usage was 694,800 gallons. Bruce attributed the discrepancy to fire hydrant flushing and also a water overflow event when the pump failed. There is relatively little leakage in the overall system; the national average is 14%.

Road Report. Rick reported we had crack sealed the roads for \$2,600. He noted there are a couple of areas that are still weak but overall the road appears to be in good shape.

New Business. Humble Ranch Trails. Rick said there had been a request to put the issue of Humble Ranch, Cheri and Ed Trousil's adjacent property, on the agenda, regarding use of the trails on Humble Ranch. Sue Swain read a statement she had prepared outlining how the Trousils are denying homeowners the use of these trails although previously having agreed to do so. A segment of that statement follows:

"When we purchased our lot and subsequently built our home and moved to Agate Creek Preserve 10 years ago, we were told we have unlimited use of the Humble Ranch trails for recreation. We hiked and snow shod regularly throughout the years and immensely enjoyed the natural beauty of this remarkable neighborhood. Over time, due to the numerous no trespassing signs, locked gates, cameras that monitor access to the trails and letters from Ed Trousil to certain lot owners prohibiting their access to the trails, we have felt less and less welcome on the trails and are at a loss to understand why the changes have occurred."

Sue said she was confused about the information she and Ted originally received from the Trousils when they purchased their lot and how that has changed to what the Trousils are saying, now. She noted that originally, Trousils represented to them that all homeowners in Agate Creek were granted use of the public trail easement except during the April 1- June 30 closure for elk calving and all Humble Ranch private trails, as well. She submitted, for the record, many letters she received from fellow homeowners who were also told the same thing by the Trousils. She chose to read three of the letters: those from Russ Atha, Ken Gold and Jim Doggart. She also read statements made by Ed Trousil in the Routt county planning meeting minutes attesting to the exclusive right that would be granted by the Trousils for

Agate Creek homeowners for use of the private trails. She requested that all letters and documents be submitted to the minutes, for the record.

Sue noted Division of Wildlife (DOW) manager Jim Haskins stated in a meeting with her that DOW agreed the more recent winter closure, which runs from December 1 through April 1, and extends the time the trail is closed for a total of 7 out of 12 months of the year is not valid because there is not enough vegetation to support an elk habitat in winter and his intention is to remove it.

Sue noted there were other interested parties who were also present at this meeting including Nancy Jarchow and Chris Wilson who represented the trail easements for the City of Steamboat.

Cheri responded that she and Ed felt they had put “everything” in preservation and the homeowners have “miles and miles of trails,” because we have access to the Agate Creek Trail, which is part of the public Emerald Mountain Trail System. In addition, Agate Creek homeowners were granted a perimeter trail easement around the boundary of the subdivision that they can use.

Russ noted that “everything” is not in preservation. One parcel is in a conservation easement, the two remainder parcels are limited to an LPS (Land Preservation Subdivision) agreement which is only for 40 years, and the clock starting ticking in 1999.

Rick asked Cheri if she had a problem with re-opening the trails for winter. Cheri responded that they have, “nothing to do with the trail closures. That is their (DOW’s) decision. It is entirely up to DOW.” Ted asked Cheri if she and Ed would object if DOW removed the winter closure. Cheri reiterated, “We will tell them there are elk living there.”

Referring to the promises the Trousils made to the homeowners allowing use of the private trails, Sue asked Cheri to explain why the homeowners have been denied use of those trails, including the trail by the teepees. Cheri responded that the Trousils view the Agate Creek homeowners as members of the public and therefore homeowners are not allowed to use the private trails.

Russ stated that the Trousils had personally promised him and Shine that they would have use of all of the trails. Rick said that he had also been told by Ed Trousil that he had the right to use the ranch trails. Cheri responded, “You have all the other trails.”

Ted told Cheri that the Trousils’ interpretation of what they promised the homeowners when we all purchased was different than what they are saying now. Cheri responded that originally the Trousils’ had a “community vision” but that has “evolved and changed,” and is not the same now, as it was before. Ted asked Cheri, “What has changed about your vision?” Cheri responded that she, “felt good,” that all their promises were met, and reiterated, “Everything’s in conservation.”

Nancy noted that it was not the Trousils’ vision but rather the community vision, which the Trousils had agreed to, in order to be allowed to participate in the Legacy Partnership purchase of the Grant Ranch , thereby allowing the Trousils to receive public money toward their purchase. She noted that the Trousils had stated in their written application to Routt County, as well as stating verbally to her, personally, and in her presence to many neighbors and other members of the community at different

times over the course of the approval process, that they would place the Remainder Parcels in a perpetual conservation easement, which they have not done.

Sue asked Cheri if the Trousil's were planning to continue operating their non-profit, noting she had understood they were turning it over to STARS. Cheri said they are going to continue operating the horse therapy at the ranch and may merge some programs with STARS, as there isn't enough room for all of them.

Shine said that she and Russ had bought their property because they were so pleased with what the Trousil's were planning on doing with the property. The Athas stated that they did not purchase the property to build a home on it or for the investment value, but more to support what the Trousil's said they were planning to do with the property. The added attraction of preserved land and access to all the Humble trails was certainly a factor, also. Shine also stated that she was sorry to see such an, "us vs. them" attitude develop between the HOA and the Trousil's. She said she and Russ had xc skied on the groomed trails on the ranch until Ed told them they were no longer welcome. She said she sees no benefit for homeowners, noting people living in town have the same rights as someone who bought property. Russ commented, "We were there when you needed us and now we're out."

Libby asked Cheri why, after they made promises to so many people, they hadn't done what they said they would do? Cheri responded she "wasn't prepared to answer that question." She explained, "things had changed, there have been conversations" and she didn't, "want to point fingers." Joe asked Cheri, "So, is what you said was true then, not true now?" Cheri did not respond.

Rick said we've aired the discussion and asked if there were any further comments. Sue made a motion to appoint a homeowner representative to meet with Jim Haskins to seek removal of the winter closure. Motion was made and passed to appoint Sue, Rick and Russ to meet with Jim Haskins.

Rick said that as required, a board meeting would immediately follow the annual meeting and asked if there was any further business for the annual meeting. There was none. A motion was made and approved to adjourn the meeting.

Respectfully submitted,

Nancy Jarchow, Secretary