**AGATE CREEK PRESERVE HOMEOWNERS ASSOCIATION**

**MINUTES OF THE ANNUAL MEETING OF MEMBERS**

**OCTOBER 15, 2010**

The Annual Meeting of the Agate Creek Preserve Homeowners Association was duly called and held beginning at 2:00 p.m. on Friday, October 15, 2010 at the offices of Wells Fargo Bank, Steamboat Springs, Colorado.

Russ Atha, President of the Association served as Chairman and Rick Dowden, Secretary of the Association, recorded the minutes.

The Chairman opened the meeting and asked for roll call of members, which showed:

Members present in person: Russ Atha, Rick Dowden, John Duty, Nancy Jarchow, Bill Keith, Kim Kreissig, Phil McClure, Joe Robbins, and Sue and Ted Swain.

Members present by proxy: Randy and Connie Dean, Jim and Joanne Doggart, Ken Gold, Pat and Jennifer Hezmall (two lots), Thomas Oliver and Ed and Sheri Trousil (who were represented in person by their attorney, Alan Keefe). The proxies were ordered filed with the Minutes of this meeting.

Present by invitation: Medora Fralick, The Commercial Property Group, administrators for the Association.

The Secretary announced that there was a quorum present and that in fact all Members of the Association were present either in person or by proxy.

The Secretary then presented his Certificate of Mailing of the Notice of Meeting and said that the Notice had been duly sent to all Members of the Association both by United States mail and by email. The Secretary’s Certificate together with a copy of the Notice were ordered filed with the minutes of this meeting.

The Chairman then asked Ted Swain, the Association’s Treasurer, to present the financial report. Mr. Swain did so and noted that the Association’s financial situation remained strong, but that some attention needed to be paid to the fact that the proposed 2010-2011 budget as well as the expected final results for the current fiscal year were slightly negative. There followed an extended discussion about the proposed 2010-2011 budget in light of Mr. Swain’s remarks, focusing particularly on the perceived need among the Members to establish and begin funding a capital reserve account to cover expected future capital costs, especially for the road and the water system. At the conclusion of this discussion it was the clear consensus of the Members that:

1. The annual assessment should be increased by one thousand dollars ($1,000) per lot, five hundred ($500) of which should be allotted to operating expenses and the remaining five hundred ($500) of which should go into a capital reserve account; and that
2. Ten thousand dollars ($10,000) of the amount currently being held in the general funds of the Association should be moved into the capital reserve account.

As a part of the financial discussion, the Chairman noted the need to review water charges and said that the Board was considering adopting the Dakota Ridge Homeowners Association Water Rate Schedule with the addition that any lots which were not actually hooked into the water system and using water from it would be assessed a “stand by fee” of fifty dollars ($50) per quarter. There followed an extended discussion of water rates with the consensus being that the action suggested by the Chairman would be an appropriate way to start individual usage billings, but with one Member questioning whether it was fair or proper to bill everyone the same for usage considering the different costs and circumstances among users for in-home water treatment. While that consideration was thought to be a valid concern, the Members were unable to suggest a way to implement a fee structure which would effectively deal with that situation.

The Chairman then turned to consideration of amending the Articles of Incorporation of the Association to provide that the Executive Board would consist of a minimum of one (1) and a maximum of six (6) members rather than a maximum of three (3) as was the current situation. It was explained that the Board was recommending such action to allow more Board participation on the part of Members and to assist with future Director transitions by having more Members actively involved in the affairs of the Association.

Upon motion duly made and seconded the proposal to so amend the Articles of Incorporation to provide for an Executive Board of between one (1) and six (6) members was adopted by a vote of 15 in favor and 1 (Ed and Sheri Trousil) abstaining.

The meeting was thereupon temporarily adjourned to allow for a meeting of the Executive Board, following which the meeting was reconvened with all members still present in person or by proxy.

The Chairman announced that at its meeting the Executive Board had taken three actions:

1. It had amended the By Laws of the Association to provide that the number of members of the Executive Board would be five (5).
2. It had adopted the proposed 2010-2011 budget as previously distributed to the Members and made available at the meeting with the exceptions that:
   1. Annual assessments had been increased by one thousand dollars ($1,000) per lot, five hundred ($500) of which would be allotted to operating expenses and the remaining five hundred ($500) of which would go into a capital reserve account; and that
   2. Ten thousand dollars ($10,000) of the amount currently held as general funds of the Association would be moved into the capital reserve account.
3. It had adopted the Dakota Ridge Homeowners Association Water Rate Schedule for the Association with the addition that any lots which were not actually hooked into the water system and using water from it would be assessed a “stand by fee” of fifty dollars ($50) per quarter. The Chairman noted that actual implementation of this schedule was dependent on all users having meters installed and committed to keep the Members apprised of progress in this area to advise when the implementation of the schedule would actually begin. A copy of that schedule was ordered attached to the minutes of this meeting. It was noted that Humble Ranch would be subject to this Rate Schedule as well.

The Chairman asked if there were any comments, disagreements or discussion regarding the new budget, and as there were none expressed the Chairman declared the budget ratified by the Members. It was noted that as good practice the Association’s financial statements should be distributed to the Members by the Treasurer on a quarterly basis; with which there was unanimous agreement and the Treasurer was so directed.

The Chainman stated that the next item for action was the election of five (5) Directors to the Executive Board, each to serve a one year term. Following discussion and upon motion duly made and seconded the following Members were nominated to serve as members of the Executive Board for the ensuing year and until their successors are elected and qualify: Russ Atha, Rick Dowden, Nancy Jarchow, Joe Robbins and Ted Swain. Those members were unanimously elected with Ed and Sheri Trousil abstaining.

The Chairman then moved to the unfinished business as listed on the meeting Agenda.

1. He first reported on the road and its maintenance, noting that work had been done to clear the ditches along the side of the road to help prevent water from undermining the road surface, that there had been spraying for noxious weeds, and that there had been fairly extensive repairs necessary to Elk Lane to the cost of which the Association had been obligated to contribute. It was the general feeling of the Members that the road seemed to be in good shape, but that certainly it had been appropriate to establish a capital reserve in part to cover future necessary maintenance.
2. The Chairman then turned to a review of the cattle grazing program, and said that it seemed to have been very successful. The question was raised as to what if any action to take regarding Members’ property damaged by cattle straying outside the fenced area. That matter was referred to the Board for discussion. It was also strongly noted that it was imperative that whenever cattle are moved from one pasture to the other, all of the gates in the area from which they have been moved be opened to facilitate wildlife movement. The Board agreed to undertake to discuss this with the rancher utilizing the grazing facilities to the end of having that accomplished.

There were two Member comments regarding the fencing done to accommodate the grazing program:

* John Duty expressed a concern about the look of the fencing which he did not like, especially on the downhill side of the road.
* Bill Keith expressed a concern with how close the fencing was to his Dakota Ridge home.

The Board agreed to discuss both of those issues.

1. The Chairman then introduced a discussion of the current situation regarding the Association’s water system. It was reported that for some time the Association has been negotiating with the developer to honor the developer’s contractual commitment to convey the water system to the Association. It was noted that in the materials sent out about this meeting, there was reference to possible litigation in this matter, but the Chairman reported that at the present time most of the items have been resolved by the developer’s now agreeing to honor the earlier commitment. There are, it was further reported, a number of items remaining, most of which are of a formal nature such as making sure the pipeline was actually constructed within the easement and things of that nature. A copy of the contract with the developer was ordered attached to these Minutes for the easy reference by Members.

In the discussion which ensued, the Members expressed strongly two concerns:

* 1. That they did not feel that they had been sufficiently kept up to date on developments regarding the water system and asked that that be done going forward, to which the Board readily agreed.
  2. That they were not at all sure that the water system proposed to be conveyed met the standard of the system and the water quality for which they bargained due to their being iron and manganese levels to a point where home treatment was not always effective, and the Board was asked and agreed to explore this point with counsel prior to accepting any offered transfer of the water system. It was noted that just because the water coming from the system was not lethal did not mean that it met the proper, legal or expected standard.

The Chairman asked if there were any more matters to come before the meeting, and there being none the meeting was thereupon adjourned.

Respectfully submitted,

Rick Dowden

Secretary