

Agate Creek Preserve Homeowners Association

*c/o Double H Management
1125 Lincoln Avenue, Box 774444
Steamboat Springs CO 80477*

October 27, 2020

TO THE MEMBERS OF THE AGATE CREEK PRESERVE HOMEOWNERS ASSOCIATION:

Our Annual Meeting this year is scheduled for Friday, November 13, 2020 and I really hope that you will join us. Due to Covid, the meeting will be by telephone conference: call-in number (888) 740-4219 and passcode 778741#. If for some reason you cannot attend, I strongly ask you to return the enclosed proxy so that we will have at least a quorum. Without a quorum we cannot adopt a budget or do any other business!

2020 has been a good year without trauma or serious problems, and because some time ago we decided gradually to build up a financial reserve, we are in a strong financial position. That being said, I should note that we need to continue to monitor the water system, and to plan for some form of central treatment, a project which we have now begun. The other area I generally address in this letter is the road, and as most of you know we had the road chip sealed several years ago and that seems to be holding well. We have again this autumn had the cracks in the road patched and the small problem where the Romick's driveway meets the road has also now been duly repaired.

On a very upbeat note, we have two new homes recently completed and occupied, one by Kathy and Eric Luke and the other by Mary and Lance Romick. We also have another home under construction by Cheri and Ed Trousil who originally developed Agate Creek Preserve.

As you know, the primary pieces of business at the Annual Meeting are the election of the members of the Board and approval of the budget for the ensuing year. Then following the Annual Meeting we will have the organizational meeting of the new Executive Board where officers will be elected. You are most cordially invited to that meeting as well.

One piece of new business which the members will be asked to address is an amendment to our Declaration prohibiting convicted sex offenders from residing within Agate Creek Preserve. This provision has been suggested and strongly supported by several of our members based on their past experiences and has the support of the Board. Further it has been reviewed by counsel whose opinion

it is that such a prohibition is legal and enforceable. We will discuss this ask for a vote at the Annual Meeting. A copy of the proposed amendment is included with this meeting material.

May I again urge you to join us on November 13, 2020. And, again, PLEASE, submit a proxy in if you do not feel you will be unable to.

All the best.

Rick Dowden
President

Agate Creek Preserve Homeowners Association

*c/o Double H Management
1125 Lincoln Avenue, Box 774444
Steamboat Springs CO 80477*

October 27, 2020

NOTICE OF THE ANNUAL MEETING OF MEMBERS

TO: THE MEMBERS OF THE AGATE CREEK PRESERVE
HOMEOWNERS' ASSOCIATION

PLEASE BE ADVISED that the Annual Meeting of the Agate Creek Preserve Homeowners Association will be held at 3:00 p.m. local/Mountain Time on Friday, November 13, 2020, by conference call. The call-in telephone number is (888) 740-4219 and the passcode is 778741# .

The agenda for this year's Annual Meeting is as follows:

1. Roll call
2. Presentation of proof of Notice of Meeting;
3. Reading of minutes of preceding meeting;
4. Reports;
5. Election of inspector of election (if required);
6. Election of Members of the Executive Board;
7. Review and ratification of budget for the 12 month fiscal year ending December 31, 2021;
8. Unfinished business
9. New business: a. Discussion and vote on proposal to amend the Declaration to prohibit residence by convicted sex offenders; b. informational review of other matters, if any, which have arisen since the 2019 Annual Meeting; and c. questions, discussion and other business

Please let me know if there are any items which you wish added to the meeting agenda. The proposed budget for the next ensuing fiscal year is attached to this Notice and will be posted on our Association website.

I very much hope you can join us for the Annual Meeting, but if you are not able to attend, may I please stress the importance of returning a proxy, a form of which is enclosed.

Very truly yours,

Albert R. Dowden
President

Agate Creek Preserve Homeowners Association

***c/o Double H Management
1125 Lincoln Avenue, Box 774444
Steamboat Springs CO 80477***

October 27, 2020

TO THE MEMBERS OF THE AGATE CREEK PRESERVE HOMEOWNERS
ASSOCIATION:

PLEASE BE ADVISED that a meeting of the newly elected Executive Board of the Association will be held immediately following the conclusion of the 2020 Annual Meeting of the Association on Friday, November 13, 2020 on the same conference call telephone number as for the Annual Meeting, for the purpose of electing officers of the Association for the ensuing year and to conduct such other business as may come before the meeting.

All members of the Association are cordially invited to attend this meeting of the Executive Board.

Very truly yours,

Albert R. Dowden
President

Agate Creek Preserve Homeowners Association

*c/o Double H Management
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Steamboat Springs CO 80477*

**AGENDA FOR THE ANNUAL MEETING OF MEMBERS
NOVEMBER 13, 2020**

1. Roll call
2. Presentation of proof of Notice of Meeting
3. Reading of minutes of preceding meeting
4. Reports
5. Election of inspector of election (if required)
6. Election of Members of the Executive Board
7. Review and ratification of budget for the 12 month fiscal year ending December 31, 2021
8. Unfinished business
9. New business:
 - a. Discussion and vote on proposal to amend the Declaration to prohibit residence by convicted sex offenders;
 - b. Informational review of other matters, if any, which have arisen since the 2019 Annual Meeting;
 - c. Questions, discussion and other business.

AGATE CREEK PRESERVE HOMEOWNERS ASSOCIATION
PROPOSED: 2021 ANNUAL BUDGET

Total budgeted Income	\$ 94,190
Total budgeted Expense	\$ 55,470
Net income	<u>\$ 38,720</u>

INCOME

Regular Assessments	\$ 40,000
Reserve Assessments	\$ 8,000
Water User Assessments	\$ 8,000
Water Base Assessments	\$ 12,190
Water Reserve Assessments	\$ 15,000
Road Fee	\$ 10,000
Architectural Fee	\$ 300
Interest Income	\$ 200
Interest Income - Water reserve	\$ 500
Total Income	<u>\$ 94,190</u>

EXPENSES

OPERATING COSTS

Admin/ Management	\$ 2,000
Licenses and fees	\$ 50
Insurance liability	\$ 750
Insurance D & O	\$ 1,000
Tax preparation	\$ 300
Legal	\$ 12,000
Office supplies -/Postage	\$ 100
Website	\$ 400
Fencing	\$ 6,500
Fire Mitigation	\$ 2,000
Landscaping	\$ 1,000
Road Maintenance	\$ 5,000
Snowplowing	\$ 10,000
Mosquito/weed control	\$ 250
Electric Entrance light	\$ 750
Total Operating Expenses	<u>\$ 42,100</u>

WATER COSTS

Water Base Costs	
Stagecoach lease	\$ 870
Repairs/maintenance	\$ 2,500
Total Water Base Costs	<u>\$ 3,370</u>
Water User Costs	
Operator	\$ 6,000
Supplies	\$ 1,500
Electric	\$ 2,500
Total Water User Costs	<u>\$ 10,000</u>

Total Water Costs \$ 13,370

Total Expenses \$ 55,470

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10/27/20

Accrual Basis

Agate Creek Homeowners Association

Balance Sheet

As of September 30, 2020

	Sep 30, 20
ASSETS	
Current Assets	
Checking/Savings	
Alpine Bank - CD	150,203.55
YVB - Checking	127,047.08
YVB - Money Market - Water Res	172,852.78
YVB - Money Market	76,030.96
Certificate of Deposit	26,455.98
Total Checking/Savings	552,590.35
Accounts Receivable	
Accounts Receivable	4,699.36
Total Accounts Receivable	4,699.36
Total Current Assets	557,289.71
TOTAL ASSETS	557,289.71
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
Compliance Deposit Fee	50,000.00
Total Other Current Liabilities	50,000.00
Total Current Liabilities	50,000.00
Total Liabilities	50,000.00
Equity	
Designated Funds-Gen'l Reserve	56,000.00
Designated Funds-Water Reserve	140,000.00
Undesignated Funds	273,915.87
Net Income	37,373.84
Total Equity	507,289.71
TOTAL LIABILITIES & EQUITY	557,289.71

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10/27/20

Accrual Basis

Agate Creek Homeowners Association

Profit & Loss

January through September 2020

	Jan - Sep 20
Ordinary Income/Expense	
Income	
Assessments	40,000.00
Reserve Assessments	8,000.00
Water Base Assessments	6,095.04
Water Reserve Assessments	7,499.84
Road Fee	10,000.00
Architectural Fees	0.00
Interest Income	394.81
Total Income	71,989.69
Gross Profit	71,989.69
Expense	
General & Administrative	
Admin/Management	985.00
Tax Prep/Taxes	300.00
Website	300.00
Total General & Administrative	1,585.00
Operating Expenses	
Road Maintenance	12,388.00
Snowplowing	13,730.21
Entrance Light-Electric	294.00
Total Operating Expenses	26,412.21
Water Expenses	
Water Base Costs	
Stagecoach Water Purch	870.00
Total Water Base Costs	870.00
Water User Costs	
Water Operator	4,170.00
Water Supplies	100.00
Water Electric	1,910.00
Total Water User Costs	6,180.00
Total Water Expenses	7,050.00
Total Expense	35,047.21
Net Ordinary Income	36,942.48
Other Income/Expense	
Other Income	
Interest Income - Other	
Interest Income- Water accts	431.36
Total Interest Income - Other	431.36
Total Other Income	431.36
Net Other Income	431.36
Net Income	37,373.84

**SIX AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR AGATE CREEK PRESERVE, A LAND
PRESERVATION SUBDIVISION EXEMPTION**

THIS SIXTH AMENDMENT ("Sixth Amendment") to the Declaration of Covenants, Conditions, Restrictions and Easements for Agate Creek Preserve, a Land Preservation Subdivision Exemption is made this ____ day of _____, 2020.

RECITALS

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Easements for Agate Creek Preserve was originally recorded on June 25, 1999 in Book 759 at Page 840 and Reception No. 5123333 of the Routt County records (the "Declaration") and has been previously amended by the First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Agate Creek Preserve, a Land Preservation Subdivision Exemption, recorded on February 25, 2000 at Reception No. 523841 of the Routt County records (the "First Amendment"), and further amended by the Second Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Agate Creek Preserve, recorded June 5, 2003 at Reception No. 584365 of the Routt County records (the "Second Amendment"), and further amended by the Third Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Agate Creek Preserve, recorded March 1, 2006 at Reception No. 633851 of the Routt County records (the "Third Amendment"), and further amended by the Fourth Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Agate Creek Preserve, recorded September 13, 2016, at Reception No. 772302 of the Routt County records (the "Fourth Amendment"), and further amended by the Fifth Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Agate Creek Preserve, recorded November 22, 2017, at Reception No. 785352 of the Routt County records (the "Fifth Amendment").

WHEREAS, the Owners desire to amend the Declaration in accordance with Section 16.2 of the Declaration, which provides that the Declaration may be amended at any time by the Owners holding more than fifty percent (50%) of the votes possible to be cast under this Declaration at a meeting of the Owners called for that purpose, or by written consent, or by a mail-in election.

NOW THEREFORE, the Declaration is hereby amended as follows:

AMENDMENT

1. A new Article 15.10 is hereby added to the Declaration, effective as of the date above, and shall read as follows:

15.10. Prohibition of Sex Offenders Residing Within the Association

The Owners hereby finds that sexual predators and the specified sex offenders who use physical violence or who prey on children present an extreme threat to the public safety. Sexual predators and the specified sex offenders have a high rate of recidivism, making the cost of sex offender victimization to society at large extremely high. This Section is intended to serve the Association's compelling interest to promote, protect and improve the public health, safety and welfare of the Association and its Owners.

Any person who has been found to be a sexually violent predator pursuant to C.R.S § 18-3-414.5, or is required to register under the Colorado Sex Offender Registration Act, C.R.S. § 16-22-101, et. seq., is hereby **PROHIBITED** from using any Lot within the Association as a permanent or temporary residence.

Further, it is **PROHIBITED** for any Owner to let or rent any portion of a Lot with knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to this Section.

This Article will not apply to any person who established the permanent or temporary residence prior to the effective date of this Article; provided, however, that this exception shall not apply if the person committed the offense, for which registration under the Colorado Sex Offender Registration Act is required, after the effective date of this Article.

In the event of any inconsistency between this Sixth Amendment and the Declaration and/or any other Amendments, this Sixth Amendment shall control.

Agate Creek Preserve
Homeowners Association, Inc.

STATE OF COLORADO)
) ss.
COUNTY OF ROUTT)

Notary Public

By: _____, Secretary

STATE OF COLORADO)
) ss.
COUNTY OF ROUTT)

Notary Public

Agate Creek Preserve Homeowners Association

*c/o Double H Management
1125 Lincoln Avenue, Box 774444
Steamboat Springs CO 80477*

PROXY FOR THE 2020 ANNUAL MEETING:

The undersigned, being (a) member(s) of the Agate Creek Preserve Homeowners' Association do(es) hereby designate _____ to serve as my/our proxy to cast my/our vote in any matter coming before the 2020 Annual Meeting of the Association.

Print name(s) of Member(s)

Signature(s) of Member(s)

Date: _____ Lot(s) Owned _____

To be effective, proxies must be presented at the Annual meeting, which can be done by anyone in attendance. Proxies sent to Albert R. Dowden, by mail to PO Box 774000—PMB #222, Steamboat Springs, CO 80477 or by email to rdowden@sprynet.com , and received prior to the Meeting, will be so presented.

AGATE CREEK PRESERVE HOMEOWNERS ASSOCIATION
MINUTES OF THE ANNUAL MEETING
NOVEMBER 20, 2019

The Annual Meeting of the Agate Creek Preserve Homeowners Association (the "Association") was on due notice called and held at 3:00 p.m. on Wednesday, November 20, 2019 at the offices of Alpine Bank, 1901 Pine Grove Road, Steamboat Springs CO 80487.

Rick Dowden, President of the Association, served as Chair and Sue Swain, Secretary of the Association, served as Secretary of the meeting.

Following a roll call the Chair announced that:

- Members present in person were: Shine & Russ Atha, Carol & Rick Dowden, John Duty, Mary & Lance Romick and Sue Swain.
- Members present by proxy were: Randy Dean, Pat Hezmall, Eric Luke, Phil McClure and Thomas Oliver.
- Present by telephone was: Anne Krieg
- Also present by invitation were Sue & Hans Hochreiter from the Association's management company, Double H Management.

The Chair announced that as there were a total of 11 (out of sixteen) members present or voting by proxy, a quorum was present and the meeting was duly organized. He then presented the proof of Notice of Meeting which was ordered appended to these minutes.

The Chair then turned to the reading of the minutes of the 2018 Annual Meeting, noting that draft minutes had been previously distributed to the members. On motion duly made, seconded and unanimously adopted, reading of such minutes was waived and they were unanimously approved as presented.

The next order of business was the presentation of reports:

1. Financial Report. Anne Krieg, the Association's Treasurer, and Hans Hochreiter presented the report. They noted that the the Association's current financial statements had been previously distributed to the members and noted that the Association was in a very sound financial position. There was a question concerning the current reserves, which was responded to by Hans. It was in the course of discussion noted that the reason for the large amount of reserves was because at some point the Association will have to operate its water system as a regulated utility which is expect to require very substantial capital investment. The holding of such reserve for such use was unanimously approved. It was noted that

a copy of the current balance sheet had not been included with the previously distributed financials and Hans was asked to provide one to the Chair who in turn agreed to send it out to members together with the draft minutes of this meeting. There being no further questions or discussion on the financials, the Chair moved on to the next report.

2. Water matters. The Chair then proceeded to report that there were no changes of which he had been made aware in the water situation during the past year. Unlike many times in the past, most current users of the water system do not seem to have experienced problems during the past year, with the notable exception of the McClure's who continue to have both pressure and mineral concerns. He noted that as previously mentioned at some point the Association would be legally required to add processing capability significantly beyond what is currently provided and that the Board continued to research and evaluate that area. He noted that he had been remiss in this area and would get to work on it promptly. One of the main problems is that so far the Board has been unsuccessful in identifying a consultant in which they have sufficient confidence to proceed with a plan for further water treatment. A question was also raised about the number of times the water system is flushed out each year and on what schedule and the Chair agreed to check on that with Bruce Thompson, the Water Manager, and advise the membership. Lastly on water the question was raised whether anyone had an analysis of the raw water available. No one seemed to know of such an analysis and the Chair agreed to secure and distribute one.
3. Road. The Chair then reported that the road continued to hold up well, and that following the chip and seal coat applied, there were no current and immediate concerns other than some road damage where the Romick's driveway meets the road. He said that that damage would be addressed as soon as heavy trucks were done at the property. During discussion it was also agreed that when appropriate in the Spring the ditches along the sides of the road would be inspected and repaired as required.
4. Construction. The Chair noted that there were currently two homes under construction within the subdivision, those being by Eric Luke and by Mary and Lance Romick. The question was raised whether some sort of road fee should be payable for landscape and other "non-home construction" projects given that those projects often involve bringing in heavy equipment. That matter was delegated to the Board for review and discussion.
5. Fire Mitigation. The Chair reported that the Association has been on the review list for the Forest Service for two years but apparently because there is only one person assigned to fire mitigation consulting we had yet to have been evaluated. It was suggested that we find a paid consultant

and have that done, and the Chair agreed to undertake to do that, reporting to the Board.

The Chair said that the next order of business was the election of an inspector of election, but that election was postponed pending determination of whether an inspector would be required.

The Chair then turned to the election of members of the Executive Board. He announced that the following members had been put forth for election and they were duly nominated: Russ Atha, Randy Dean, Rick Dowden, Anne Krieg and Sue Swain. He noted that the same small group had represented the members on the Board for some years and that attention should be paid to introducing new members for the Board. He then asked if there were any further nominations. There being none, the Chair declared the slate as nominated to have been elected to serve for the ensuing year and until their successors shall be duly elected.

The Chair then asked Anne Krieg, as Treasurer, to present the proposed 2020 budget, which Anne, together with Hans, then did. She noted that there were only a few very small changes from the 2019 budget to reflect 2019 actuals, which she reviewed. On motion duly made, seconded and unanimously adopted, the proposed budget for 2019 as presented was approved together A copy of the 2020 budget as approved was ordered attached to these minutes.

The next item on the agenda was to deal with any unfinished business. The only matter raised was a reminder that at some point the Board and possibly the membership had to deal with the fact that almost certainly the time requirement for building the Luke house would greatly exceed the time allowed under our covenants. It was decided to postpone any specific discussion of this matter until it was finally determined when the construction was completed and a Certificate of Occupancy issued. It was the consensus of the meeting, however, that something had to be done if for no other reason than precluding a very negative precedent.

Continuing to new business, the Chair said that the only matter of which he was aware was the agricultural use of much of the property within Agate Creek Preserve. He reviewed that there was or had been a separate agriculture group and that the agriculture affairs were specifically not in the past considered as within the purview of the Association or its Board. He noted, however, that due to numerous considerations, not least the sale of lots by some of those most involved in agriculture situation, he had decided that in order to preserve the agriculture status of the 13 members in the agriculture group, he had undertaken the responsibility of assisting with such matters. He also noted that many and perhaps all of the participants had recently received a notice from the County Assessor asking for submission of proof of agricultural use of the property. To date the leases have been with Dave Schultz, but he reported that for 2019 Dave

had been unable to honor the leases and had, apparently, been unable to make the required payments. He reported further than thanks to member Pat Hezmall a new lessee appears to have been found and that preparation of new leases was being undertaken and each member of the group would be contacted shortly on executing a new lease with a new lessee.

There being no further business to come before the meeting it was duly adjourned.

Respectfully submitted,

Sue Swain
Secretary of the Meeting