

**Mountain Springs Ranch Homeowners Association
Board of Trustees Meeting**

January 4, 2022

7:00 p.m.

Minutes

In attendance:

Board Members: Julie Coy, Gary Starr, Cyndie Rippy, Louisa Morrissey, Jennifer Tomsen, Matt Graham

Others: Peggy Hill, Christie Milner, Chris DeSantis, Sean Elias, Carrie Clark, Mike Freeman, Micah Embrey

Call to Order:

Gary Starr called the meeting to order at 7:02 p.m.

Approval of Minutes from December 7, 2021

Julie indicated a change is needed in the minutes to read “due date of January 31st” for dues rather than January 1. No other corrections requested. Julie moved to approve the minutes with the correction.

Cyndie seconded the motion. All approved. Motion passed.

Member Comments Not Related to Agenda Items

Christy Milner commented that the letter to members stated the reason for the due date change was because funds needed to be separated and that there is no legal need for that fund separation. These are separated for accounting purposes only. She feels there is no reason for earlier collection of dues, but the Board DOES need to include the contingency fund in the 2022 budget statement and the Treasurer must accurately account for all funds going into or out of the contingency fund. She stated there are legal requirements for enforcing dues collection under CCIOA. Christy stated the current policy on assessments (like all other policies adopted by the Board prior to January 2021) is invalid since members were not present at Board meetings prior to that date. [See CCIOA section 38-33.3-308(2) & 38-33.3-308(6).] However, even if it were properly adopted, it still doesn't comply with the law. CCIOA requires that the policy specify the date on which assessments must be paid and when they are considered past due and delinquent. [See CCIOA 38-33.3-209.5(a).] The MSR policy refers to the dates specified in the annual meeting. Even if that reference satisfied the legal requirement, there was no mention of the due date at the last annual meeting. Currently, there is no legally enforceable due date for assessments-neither Jan. 31, March 31 nor December 31. Christy went on to say the policy must specify any late fees and interest the HOA is entitled to impose on a delinquent unit owner's account—among other requirements. [CCIOA Section 38-33.3-209.5(5)(a)] The current policy provides for 10% interest on delinquent accounts, but without a valid due date, one cannot collect interest. The late charge specified in the policy is \$100/day. Jeff Conklin, previous counsel to the HOA, advised us that the \$100/day penalty was unenforceable. This was the end of Christy's 3 min comment period. She concluded that a new policy will be needed that complies with CCIOA, is approved by legal counsel and adopted at an open Board meeting. (Secretary's note: CCIOA citations were taken from email sent to the Board by Christy after the meeting and are in brackets.)

Sean Elias asked when the Board will enforce the Snowplow Policy regarding irregularities and stated that nothing is being done after multiple notifications. He also asked who hired Walters Company to do the blading with the grader and complained that portions of the road have been plowed down to dirt on Saddle Drive and that it is not consistent over the entire road system. Gary Starr explained that plowing assistance when needed from Walters Company for clearing Saddle Drive and portions of Marsh Lane is being contracted jointly by the owners on North and South Marsh Lane who want plowing done to their properties. Much of the work continues to be done by owner-operators when possible. All operators are familiar with the snowplow policy and are doing their best to conform to it. Contentious conversation occurred throughout this interaction and Sean was asked repeatedly to be respectful of other members. When he continued to refuse to do so he was removed from the meeting and reported to Zoom for abusive language behavior to multiple members.

Treasurer's Report & Discussion re: Contingency Funds

Cyndie reported that some budget lines have money remaining from 2021 and some lines are overspent. She recommended we retain the \$3765 left in the road budget to pay for snowplowing done in December. The other line items that have funds remaining could be reallocated to cover accounts such as legal that were overbudget. If we do that, we can finish 2021 about \$1,400 in the operating funds. Going forward in 2022, excess funds can be allocated to the new reserve fund consistent with what has been proposed for revisions to our By-Laws.

Christy Milner objected to reallocating funds as described and stated she believed the only legal pathway is to return excess funds to members or use those funds to reduce dues in the next year. Gary Starr responded by indicating we have taken this set of issues to our legal counsel. Julie made a motion to take the question Christy is raising to HOA Counsel and act in accordance with their guidance. The motion was not seconded.

Carrie Clark pointed out that the previous Board voted about 2 months prior to the Annual meeting that any excess funds in 2021 would be used to reimburse the contingency fund that was already tapped for excess legal expense in 2021.

Cyndie Rippy stated that the total amount of money in play is only \$1,429.35. Matt Graham pointed out that if that amount were returned to members, the amount would be around \$32.00 per owner.

Gary moved that we take the excess funds of \$1,429.35 to reimburse the contingency fund for previous legal expense overruns, consistent with the prior Board's vote. Matt Graham seconded the motion. Cyndie, Louisa, Julie, Jennifer, Matt, Gary all voted in favor to pass the motion. Motion passed.

Committee Reports

Road: Gary Starr said there has been 5-10 feet of snow over the 10 day holidays and he feels Walters Company has performed well. Gary acknowledged that the plows have taken the base down low in some places despite their best efforts while pushing the banks back to make room for more area to plow snow, but that Walters Company workers have done a remarkable job clearing the road at all hours, sometimes working 14-16 hour days, and addressing serious safety concerns with icing that resulted in several vehicles sliding off the road.

Fire: Louisa Morrissey reported no update and said she is comfortable deferring discussion of the process for considering being part of the Glenwood Fire District to the next meeting.

Habitat: No update.

Old Business

Governing Documents Work Group: Gary Starr spoke with Mary Elizabeth, our HOA Counsel. She recommended that we go through the Covenants and address community-specific issues first and then send the Covenants to Counsel to make all changes needed to conform with CCIOA. Julie Coy reported that the work group got together to get organized and will meet to really start the work process next week. With multiple efforts to elicit and incorporate input from members in the final product. Julie Coy made a motion to establish the project as the Governing Documents Work Group, as distinct from a standing committee of the board. Cyndie Rippy seconded the motion. Louisa, Julie, Cyndie, Matt, Gary, and Jennifer voted to approve the motion. It passed.

Lot 17 Follow Up: The owners received our first registered letter including information about the Covenants and policies they have violated. They have not responded. They must receive three letters from the Board before action can be taken against them. Gary will draft the second letter and circulate it to the Board for review within the next week and include the policy on enforcement of the covenants that outlines consequences for failure to address the issues. He will include a due date for response of 2 weeks and send it by registered mail. If they do not respond after the 3rd letter they receive, we will schedule a hearing in accordance with the policy on enforcement of the Covenants. If they do not appear, the Board will listen to the concerns raised by other property owners and will move forward with consequences as per the policy.

Carrie Clark and Mike Freeman expressed gratitude for the Board's follow up.

Private Plower Liability Insurance: Gary discussed the level of coverage needed by plow operators with his insurance company. They recommended between \$250,000 to \$300,000. Cyndie Rippy got the same feedback from her insurer. Both said \$100,000 coverage is insufficient. Gary reported that 3 owners who can help plow cannot get \$1M in coverage which is what the current policy requires. Gary made a motion to allow a variance to the policy to require these plowers (Jack Cody, Tim Hasselmann, and Tom Heald) to have a policy of at least \$250,000 and to follow all other elements of the snowplow policy and coordinate with Walters Company. Julie Coy seconded the motion. Jennifer asked where the \$1M requirement came from. Julie indicated it was input from the HOA's former State Farm representative, Jeff Leonard, who retired as of October 31, 2021. Jennifer also asked and Gary confirmed that it's possible for owner-operators to coordinate well with Walters Company on plowing the main road when necessary. The motion passed unanimously.

New Business

Construction Deposit Refund and Refund Process: Topic tabled to next meeting.

Snowplow Policy Discussion: Gary reported that it has been nearly impossible to retain 4 inches of base while plowing. Ed Walters has said a 2-inch base is recommended for safety on the main road. There are now 20 people along Marsh Lane that want safe access to their properties. 2 inches of base will still allow use of snow machines when needed. Cyndie Rippy agreed. She

recommended that the policy be changed to simply state that plowers will operate to the best of their ability to create safe access to properties. Matt Graham agreed that the policy should not have a specific number of inches referenced and instead express the intention to leave a good base and not plow up gravel but to make safety a priority in achieving ingress and egress. Matt added that the snow is moved, not removed; and must be pushed back away from the road to keep it wide enough for safe passage. In doing that, some of the material on the sides of the road will inevitably be caught up. He said the road has been icy and the conditions have made it very difficult and dangerous at times for plow operators to do what is necessary to keep the road open and safe.

Christy Milner agreed that ingress and egress are the most important focus for snowplowing policy. She reiterated that leaving a base of snow on the road allows owners to have ingress and egress to their properties via snowmobile if they do not want to plow their driveway when they are away and that plow berms should not inhibit ingress and egress from driveways.

Louisa Morrissey made the following suggestions for changes to the Snowplow Policy:

- Section 1C says that snowplow operators will make every reasonable effort to avoid exposing the road surface. That should be adequate and should be retained.
- Remove Section 3D that specifies the number of inches to be left on the road because the intention and practice is already addressed in 1C;
- Change Section F referencing the liability insurance requirement to require \$500,000 for general liability and \$250,000 for vehicle liability and to list MSRHOA as an additional insured on each operator's policy.
- Remove language in 3B that suggests the number of inches that is reasonable to remain in place in bermed snow across driveways since the intention to keep plow berms from inhibiting egress and ingress is already expressed.

Cyndie Rippy commented that it is typical to have a significant berm result from plowing and as an owner who is at the end of the road system, she expects that it will be a barrier and that they have to deal with it.

Micah Embrey commented that he wants to be able to access his home and use his driveway, understands that it is his responsibility to create that access; and just doesn't want plowing to make it impossible. Members of the Board who plow offered assistance when needed when an issue arose that was a mistake on the part of Walters Company plower and was admitted by the company. Walters Company had also offered to come back up and fix it but Micah had already corrected the problem.

Julie Coy and Matt Graham pointed out that a number of HOAs, the City of Glenwood and Garfield County deals with the contentious issue of snow berms blocking driveways by having owners responsible for clearing snow from their own driveways and driveway entrances after plowing on the roads.

Julie Coy made a motion to eliminate language in the Snow Removal Policy section 3D (in its entirety), and in Section 3B that identifies the number of inches in a plow berm that are considered reasonable; change the liability limits for plow operators to \$500,000 in general liability and \$250,000 in vehicle liability, and to include Mountain Springs Ranch Homeowners

Association as an additional insured on each operator's policy; and update the date of approval by the Board. Gary seconded the motion. All six members of the Board voted to approve the change. Julie will update the Snow Removal Policy and get it out with the minutes in the next 1-2 weeks.

Fire District and Road Use Rules to Policy topics were deferred to the next Board meeting.

Next meeting will be Tuesday, February 1st at 7 pm.

The agenda will include Flannery Reservoir update; Glenwood Springs Fire District inclusion review process; Changing Road Use Rules to policy; Construction deposit refund and refund process; Update on Lot 17; Update on Governing Documents Working Group; and if time permits comments on update of Snow Removal Policy.

Gary moved adjournment at 8:42 pm. Julie seconded the motion. All agreed. Motion passed.

Respectfully submitted,

Julie Coy

Secretary