

Mountain Springs Ranch Homeowners Association

Board of Trustees Meeting

10/20/21

Board Member Attendance

Carrie Clark, Julie Coy, Gary Starr, Cyndie Rippy, Chris DeSantis

Others in Attendance

Micah Embrey, Matt Graham, Louisa Morrissey, Ed Walters, John Rippy

Call to Order

President Carrie Clark called the meeting to order at 6:04 p.m. and reviewed expectations for meeting participation.

Approval of Minutes

Board of Trustees Meetings on October 6: Gary Starr moved approval of the minutes, Cyndie seconded the motion. All approved.

Board of Trustees Meeting October 13: Gary Starr moved approval of the minutes, Cyndie seconded the motion. All approved.

Special Membership Meeting, October 13, 2021: Gary Starr moved approval of the minutes, Cyndie seconded the motion. All approved.

Draft of Snow Plowing Policy

Carrie Clark thanked the members of the Snow Plowing Policy Committee for their work. Carrie reiterated that the policy will not be perfect. Future Boards can revisit it, informed by community experience.

On the question of insurance coverage, Jeff Leonard at State Farm, our HOA insurer, recommended at least \$1 million liability coverage for personal and property damage. Gary Starr said his coverage costs as a homeowner are different than those that a commercial operator must carry, but that he does have \$1 million in coverage as an individual homeowner. Matt Graham asked if the coverage can be part of an umbrella policy, and Gary Starr said that is what he has. If a homeowner will be plowing on MSR roads, s/he must submit their policy to the Board of Trustees to prove coverage.

Paragraph 2.g: On the question of snowplowing and incidental damage to vegetation in the easements and road surface, Gary Starr recommended eliminating the paragraph that introduces penalties for such damage given that it isn't the result of malicious intent but normal wear and tear in the process of plowing.

Chris DeSantis said he wants this paragraph included to hold plow operators responsible for being careful. He has lost trees to damage by plowing in the past and has live trees now that are in or near the easements and he wants to keep them in place. Chris also said he has road rock and gravel 8 feet off the road in a berm, which he feels is not reasonable.

Cyndie Rippy agrees that paragraph g is unnecessary, and it is difficult to differentiate damage to the road that is directly due to snow plowing versus increased traffic and runoff.

Julie Coy said that the secondary roads have not been plowed for the entire 30-year life of the community. It's only been for the last 5 years or so. Prior to that, owners accessed their homes using snowmobiles which are not as hard on the roads. She does not feel it is realistic to expect to contain all the rock and gravel on the road when plowing. She is concerned about the first sentence in paragraph g because we know it won't necessarily be apparent there is damage until spring, and at that point it would be hard to know who or what might have caused slight damage. She agrees with Cyndie that this opens operators to excessive scrutiny and liability.

Ed Walters said that Chris DeSantis's tree was damaged by a wing plow and the tree was almost entirely dead and exactly 10 feet from the centerline of the road. Wing plows extend further into the easement but are necessary to get snow further off the road to allow plowing later in winter to keep roads open. Ed also addressed how gravel is splashed away from the electric vault in the road by vehicles going through the puddles and the water that streams off of Milner's driveway.

Carrie shared language from the HOA attorney about 'reasonability' of expectations related to snowplowing. There needs to be accountability, but expressed in terms that aren't so tight that no one is willing to plow. She suggested the first paragraph of Section G could read, "Within reason, the member operator is responsible for damage to the road or to private property..."

Gary Starr restated that he is still opposed to having the paragraph in there at all because it sets up a situation where member complaints will lead to excessive and unnecessary conflict and contention. Saying 'what is reasonable' is open to interpretation; and no one who plows is trying to do harm.

Chris DeSantis said the trees damaged last year were within reason. But if additional trees are damaged, he would deem that unreasonable. He said if G and H are removed then there is no accountability for either owner-operators or the HOA. Some measure of responsibility needs to be in the policy.

Matt Graham agrees with Gary and Cyndie and wants policy that gives plow operators the benefit of the doubt. Members who plow do not set out to do damage. The 'reasonable limits' language is vague and open to every owner's interpretation and interests.

Louisa Morrissey suggested asking the HOA lawyer to help write this language.

Ed Walters said we only have about 6 feet of reach beyond the edges of the road for the grader/wing. If there is a tree within 6 feet of the edge of the road, it will impede the efficient removal of snow at the levels of snow we have in MSR. Plow operators rarely drive to the edge of the road with the plow because it risks dropping into ditches and damaging the machine.

Carrie offered "Operators shall make every effort to plow in a manner that prevents damage to the road or private property" as an alternative to the current language. She said she agrees it is important to have Mary Elizabeth look at the policy.

Gary Starr said that we already have input from the lawyer and we are spending too much money asking for additional legal review. He suggested taking the question to a vote and moving on.

Matt Graham said if you make it known to all homeowners that plow operators are not responsible for damage within the easement, then it makes it clear that homeowners should remove personal property from the easement as it will be at risk. Plow operators must have places to push snow off the road because it can't be 'removed.' If you tell operators they will be exposed to punishment for doing the service of plowing, including at night in the dark, it is a real disincentive. He advised focusing accountability and related penalties on repeat offenders, not on responsible plow operators whose work inevitably will cause minor, incidental damage.

Julie Coy expressed concern about not asking our lawyer to weigh in on language that is contentious, since we have some owners who have threatened to become litigious. She acknowledged that plow operators have given thought to how they can minimize damage.

Louisa Morrissey stated that as a consistent working member of the subcommittee, members couldn't agree on language and so deferred to the Board.

Carrie suggested that the policy could include a footnote to the lawyer's definition or statement on 'reasonability.'

Chris DeSantis said without G and H, there is no real accountability, just a definition of the road segments and a suggestion that plow operators leave 4 inches of snow on the road. That leaves members and the HOA wide open to damage risks without recourse.

Chris DeSantis moved that the policy be sent to our attorney for her input on whether or not there should be a paragraph G that describes accountability for plow operators, and what the language should be. Julie Coy seconded the motion. In favor were Julie Coy, Carrie Clark, Chris. Gary Starr and Cyndie Rippy opposed. The motion passed. Carrie will direct the policy to the HOA attorney for her counsel on resolution.

Julie Coy said that the complaint section of the policy should simply refer to the 2018 policy on assessing fines and penalties.

Micah Embrey claimed there is no process for approval of plow operators by the Board. He indicated his intention to plow from the Milner property to the BLM. Julie Coy said he can only plow to enable ingress and egress to his property. Micah questioned her assertion.

Gary Starr expressed concern that the list of things that could be defined as violations and result in penalties is excessive and a disincentive to members who only want to help by plowing to enable access for all, at no cost and with their time volunteered.

Chris DeSantis said that CCIOA says that if penalties are going to be laid, then violations must be clearly defined. Absent consequences, no one can be held responsible for damage.

Matt Graham said if you take out everything related to penalties and violations, you have vague policy; and he thinks it is better to leave it vague, trusting to the basic definitions of the easement the fact that operators carry liability insurance for a reason. Going toward defined violations and penalties goes down a road that is likely to foster more conflict and nit-picking rather than a friendly, cooperative community.

Update on Repair of Electric Vaults

Ed Walters agreed to get the Board a bid for their review and that the work would possibly occur in a week or so as the grader he needs is currently being repaired in Grand Junction. Carrie requested he get a bid to the Board for approval so the work could be approved and Ed agreed.

Update on Snow Removal Contract

Carrie noted that we currently don't have a contract in place for Walters Company to plow. Ed has sent the proposed contract to his insurance agent to review the insurance and indemnification clause. None of his other clients, including municipalities and other HOAs, require the clause our HOA is asking for.

Louisa Morrissey said that the subcommittee affirmed that the snow plow policy needs to be applied uniformly to all plow operators, including owners and HOA-contracted plow operators.

Ed Walters said Joe Vittum, who is not part of MSR, bought a new blower and has said he plans to clear Forest Glen from his home off of MSR.

Adjournment

Carrie Clark commended the Board for their persistence and commitment to an enormous amount of effort this year.

Julie Coy moved adjournment. Chris DeSantis seconded the motion. All in favor. Meeting adjourned at 7:32 p.m.