

Meeting Minutes
Mountain Springs Ranch Homeowners Association Board Meeting Tuesday June 28, 2022
7:00 pm MST

Meeting opened at 7:01 pm MST

In attendance:

Board members: Gary Starr, Louisa Morrissey, Matthew Graham, Jennifer Tomsen and Tim O' Sullivan

Community Members: Susan Starr, Carrie Clark (for the first approximately 10 minutes of the meeting), Ben Young (only for the discussion about Article I section 2 of the proposed updated Covenants).

Reminder of rules of decorum. Raise your hand and wait for the President for your turn to speak. Limit your comments to 3 minutes. Do not interrupt the member with the floor. Be respectful of all members. No abusive language. There will be one request to change behavior from the president or the facilitator of the zoom meeting. If it happens again the person will be removed from the meeting.

Member Comments Not Related to Agenda Items Below

- None except for Carrie Clarks comments regarding the June 7th minutes.

Approval of meeting minutes:

- June 7, 2022:
 - Carrie Clark requested the minutes be corrected in the section regarding Lot 17 to state that after the survey that she and Mike Freeman had completed on lot 17, the total encroachment footprint over the property line was 24 feet that included part of the shed. She asked about the requirement of the Owner of Lot 17 (Bill Slavinski) to revegetate the area. There was a suggestion, but not requirement, for Mr. Slavinski to hire a professional landscape company to do the remediation. Gary Starr stated that he spoke with Bill Slavinski and Mr. Slavinski said that he had revegetated the disturbed area per Forest Service instructions. Carrie Clark said that she would follow up. Gary stated he spoke with Mr. Slavinski the prior week and reminded him that his structure need to be completely removed by July 1, 2022.
 - Louisa Morrissey motioned to approve the meeting minutes with the corrections from Carrie Clark. Matt Graham seconded the motion. The motion passed unanimously.
- June 14, 2022
 - Gary Starr motioned to approve the minutes. Tim O' Sullivan seconded the motion. The motion passed unanimously.

Governing Documents Review

- **Articles of incorporation**

- Gary Starr went through the suggestions made at the June 14, 2022 meeting that are recorded in the minutes.
- Louisa Morrissey had made the suggested changes in the Articles of Incorporation and sent the revised document to all of the Board members prior to the meeting this evening.
- There had been a discussion at the June 14th Board meeting about which language to use for the legal description of the MSR property. At that meeting it had been decided to use the legal description that was in the Covenants, as that is the document on file with the County.
- Louisa Morrissey suggested to put both the paragraphs, the first being the area described as Mountain Springs Ranch that shows recordings in the County records, and the second being the legal description of MSR, in all of the documents (Articles of Incorporation, Bylaws and Declaration). **Note: ask MEG about what we should include.**
- **All revised documents will be sent to MEG for review**
- Gary Starr motioned to accept all of the changes to the Articles of Incorporation in the updated version from the June 14th meeting. Jennifer Tomsen seconded the motion. The motion passed unanimously.

- **Bylaws**

- The Board reviewed all of the suggested changes to the Bylaws that were made and recorded in the minutes of the June 14, 2022 meeting. The minutes of the June 14th meeting were based upon the Zoom recording of that meeting.
- Louisa Morrissey incorporated the changes into the Bylaws document and sent the revised document to all of the Board members prior to the meeting this evening.
- Both the area described as Mountain Springs Ranch and the legal description of Mountain Springs ranch as it occurs in the Covenants were included in Article II.
- Article III, section 2 voting privileges: language added that Member may still vote if that Member is up to date on a payment plan approved by the Board.
- Article III and Article IV remained separate. Added “Member” meetings to the title of Article IV to read: “Association: *Members* Meetings, Quorum, Voting, Proxies
- Reviewed questions for MEG as stated in the minutes of the June 14th meeting.
- Approval of the updated Bylaws as written was tabled until Gary Starr could send the list of questions to MEG.

- **Covenants**
 - Used the updated document sent from the documents workgroup with MEG’s suggestions in red and the workgroup suggestions in green and blue.
 - The Board accepted all language added by MEG.
 - Grammatical errors and typos were corrected throughout the documents.
 - Susan Starr clarified that the Board is referred to as the Board of Directors and should be consistent throughout all of the documents.
 - Recitals item 4: Use both verbal description and legal description of Mountain Springs Ranch as decided to do in the Articles and Bylaws. **Check with MEG**
 - Article I Purpose of Covenants
 - Section 1, General Requirements : remove the word recreation per discussion at the June 14th Board meeting regarding the Articles and Bylaws for consistency between documents. Reference: June 14, 2022 minutes of the Board meeting.
 - Section 2, Inclusive and Equitable Enjoyment:
 - New language added by workgroup.
 - Suggestions: replace the word “color” with “ethnicity”; remove “sex (including gender)”. Final draft of the sentence should read: “...regardless of race, ethnicity, national origin, religion, gender identity, sexual orientation, familial status, ability or age”.
 - Ben Young clarified that this language is consistent with other Colorado HOA statutes and in line with Federal statutes from the Department of Housing and Urban development that require HOA protection of individuals of protected status.
 - There were no objections from Board members.
 - Section 3, No Nuisance:
 - Language added by MEG. No objections from Board members.
 - Article II Definitions
 - Section 1, General:
 - Language added by MEG. No objections from Board members.
 - Section 3, Membership:
 - Language added by documents group is consistent in Articles and Bylaws. No objections from Board members.
 - Section 4, Fire Defensible Zones:
 - It is unclear if this language is needed.
 - Does the Association want to require Members to maintain a fire defensible zone around their homes?
 - This section only defines the zones, not require maintenance of the zones.
 - It was decided to review the proposed changes of the Covenants in the landscaping first, then revisit this section.
 - Article III Mountain Springs Homeowners Association
 - Sections 1 through 5 added by MEG
 - Section 1, Annual meeting:

- Add “*unless unusual or unforeseen circumstances exist*” after the date November 15. This is consistent with the updated language in the Bylaws regarding the annual meeting date.
 - Proposed budget needs to be posted on the website but it should be clearly labeled as a proposed budget and not the accepted budget.
 - Accepted annual budget should be on the website so that people looking to buying property have a clear understanding of the Association’s financial spending.
- Section 4, Voting Rights:
 - Add “*or the Member is current in a payment plan approved by the Board*” into the sentence “A member will be intitled to vote at any annual meeting or special meeting only if all assessments levied against the Member are paid in full.”
 - This is consistent with the added language to the Bylaws.
- Section 5, Common Interests and Expenses:
 - Remove “and any trail easements” from the common elements?
 - Per discussion with MEG, the 8-foot easement for walking or horse trails may be removed by the membership in the new covenants if the required number of votes to approve the document is obtained.
 - Per the neighborhood survey, 83% of respondents favored removal of the easement.
 - In Article VII the documents group deleted “walking and horseback riding trails”.
 - Common expenses allocation: Language added by workgroup limits the Board to put excess assessments only into the Contingency and/or the Reserve Funds. This is not language from MEG. Gary Starr proposed that the Board also be allowed to put excess funds into the operating budget as needed in the annual proposed budget.
 - Discussion followed:
 - Excess funds are typically minimal
 - Previous survey results regarding roads show large community support for putting excess funds into road maintenance.
 - Elk Springs HOA returns excess funds into the General fund.
 - MSR has historically returned excess funds into the General fund.
 - Suggested language: “the Board shall deposit any excess assessments collected, apportioned at the discretion of the Board to the Association’s Capital Reserve, Contingency *and/or General funds*”.
- Section 6: Assessments to become liens:
 - Language was removed from the Articles and put into the Covenants by a previous work group. It remains the same as was in the original Articles.
 - Language is from a work group and not MEG.

- Change “manner” to “*Member*” in the first sentence, “owned by such manner”.
 - Change “Garfield County District Court and State of Colorado” to “*Garfield County District Court in the State of Colorado*.”
 - **Ask MEG to look at this section because it is legal language.**
- Article IV Architectural Committee
 - Louisa Morrissey pointed out that the survey results showed overwhelming support for loosening restrictions on landscaping and cutting dead trees. Survey results also favor structures that are intended to be lived in, even if they are “remote cabins”, need to conform to Garfield County building code.
 - Section 1: Architectural Committee.
 - It was suggested to open the Architectural Committee (AC) to include community members other than or in addition to the Board members.
 - Could we vote for Architectural Committee members at the annual meeting?
 - This would allow some flexibility in the future.
 - The AC has a lot of power in the community.
 - Could the Board appoint the AC as a subcommittee or advisory committee?
 - Must have a set number of members of the AC, a method of voting or appointment, who would be qualified?
 - Suggested additional language: “The Architectural Committee shall mean the Board of Directors or such *Members approved by the Board*”.
 - **Jennifer will work on language for this section.**
 - Section 2, Approval By the Architectural Committee:
 - Overall, the Board members agreed that the language as written is too restrictive and difficult to enforce.
 - The language “no improvements of any kind” is too restrictive.
 - New structures make sense to have approval by the AC, but updates or small alterations do not need approval.
 - Several of the items defined in the first sentence are addressed in restrictions found elsewhere in in the Covenants.
 - Alterations are different from new construction.
 - Louisa Morrissey proposed to remove the language “no improvements of any kind” and replace with “*no buildings of any kind shall be constructed on any lands unless the complete architectural plans for such construction are approved by the AC in writing prior to the commencement of the project*.”
 - Louisa Morrissey suggested taking out all of the other detailed prescriptive language in the section and addressing that in the sections regarding restrictions on tracts, for instance landscaping or fencing.

- Matt Graham expressed his concern that if we follow through on removing the restrictive language in this section, we need to be meticulous regarding the language in the later provisions (restrictions on lots and tracts) in the Covenants. Language needs to be exact about items need to be approved by the AC. We need to have specific language in order to prevent misunderstanding and misinterpretation. Matt Graham proposed to add the following language to the first sentence: *Alterations?/construction? must conform with restrictions listed in Articles V and Articles VI.*
- Final proposed language of the Board: *“no new construction shall be allowed unless the complete architectural plans for such construction are approved by the AC in writing prior to the commencement of the project.”* Add reference to restrictions on lots and what needs AC approval and what does not.
- General agreement was to loosen restrictions and work on the language.
- **Matt Graham volunteered to work on the language for this section.**
- Suggestion was made and concurred by the Board members to move the section “No vegetation may be altered...” that was added by the documents work group to the landscaping restrictions.
- Matt Graham suggested that it is important not to repeat items in different places as it can lead to misunderstanding and conflicting statements. He suggested to keep the language in this Article more general and use more specific language in the restrictions listed in Articles V and VI.
- Section 3, Variances:
 - Several Board members felt that the language in this section is confusing and can lead to misinterpretation.
 - MEG, in recent communication after review of this section, informed the Board that the language indicates that reasonable variances to any of the covenants are allowed.
 - Replace the word “require” with “*warrant*” in the sentence, “on such terms and conditions require”.
 - Louisa Morrissey and Matt Graham suggested to take the entire section, make it it’s own Article, and move to the end of the document. This would prevent misunderstanding that variances only apply to construction.
- Section 6, Architectural Plans:
 - Should the Covenants define what complete architectural plans include as the Policy on Construction Procedures states?
 - Suggest to add a reference the Policy Regarding Construction Procedures and the Policy for Construction Cash Accounts for more detail.

- Article V Restrictions on Residential Tracts
 - Section 1: Number, Type and Location of Buildings:
 - Gary Starr expressed concern regarding the language added by the documents work group regarding “remote cabins”.
 - 76% of respondents to the survey were in support of having the Covenants require that “remote cabins” conform to Garfield County building code.
 - It is not a huge imposition to apply for a building permit.
 - A building permit assures the community that all construction is up to code, safety standards, surveys are accurate, etc.
 - After discussion, the Board members decided that every structure built in the community needs to have a building permit and meet Garfield County building code.
 - Language: “*All new construction as of (date of Covenants approval) is required to receive building permit and meet Garfield County building codes. Prior to construction the builder must submit valid building permit from Garfield County*”.
 - Used/temporary structures:
 - As written the section regarding used or temporary structures or trailers could be interpreted that no campers or trailers of any kind may be kept on property after the home is completed.
 - Board members considered this too restrictive.
 - Redefine in terms of “primary dwelling” or “permanent occupancy”.
 - Suggested language change to reflect occupancy: “No used or temporary house structure... or nonpermanent outbuilding shall ever *serve as the primary dwelling* on any residential tract except during construction periods with a valid building permit” Remove “placed, erected or allowed to remain”.
 - Remove language added by documents work group regarding requirement for removal of trailers or campers.
 - Timeline for completion of building:
 - Documents work group added language requiring that construction be completed in 18 months with only one 12 month extension allowed.
 - This language would not allow for unforeseen circumstances such as COVID and the supply chain interruption.
 - Add language: “*Additional extensions may be considered by the Board for good cause*”.
 - Section 2, Dwelling House to be Constructed First:
 - Could guest/caretaker house be constructed first?
 - Could a small shed for tools be built first?
 - Add language “*or is approved through a variance by the Board.*”

- Section 3, Towers and Antennae:
 - The Board members felt the language was too restrictive, prescription and difficult to enforce.
 - Must comply with OTARD
 - Gary Starr volunteered to work on language for this section.
- Section 4, Fences:
 - Survey results showed that 76% of respondents favored allowing taller fencing.
 - Gary Starr commented that he does not favor any fencing of solid material.
 - Use language suggested by the documents work group: “Open wire fencing up to six feet above ground is allowed within 150 feet of the primary residence.”
 - Keep exception made for livestock.
- Section 5, Trees and Landscaping:
 - Survey results show 86% of respondents favor removal of restrictions on landscaping to allow for growing vegetables, flowers, etc. 90% of respondents favored removing restrictions on cutting trees and brush beyond the defined fire defensible space around a home.
 - Remove original language as it is too restrictive.
 - Use some of the language suggested by the documents workgroup regarding the creation of reasonable landscaping.
 - Board members were concerned that removal of all restrictions could result in clear cutting.
 - Louisa Morrissey pointed out that the restrictions on cutting dead and dying trees to within the defined fire defensible zones are unreasonable, considering that it is necessary to remove as much dead and decayed trees as possible to reduce the fuels and fire danger that these present to the community at large and to lower the risk of an extremely hot wild fire.
 - Landscaping removes trees and brush and fuels for fire.
 - Need to create a balance that allows for tree removal and landscaping but not allow clear cutting. How is clear cutting defined?
 - Need to create a balance that allows Members the freedom to enjoy their personal property but also protects the beauty of the landscape and the community.
 - Suggested language, “Reasonable landscaping is allowed up to 2 acres around the primary residence. Trees and shrubs may be removed for fire mitigation and fuels reduction or to create paths sufficient for personal recreation trails on Owner’s tracts.
- Section 6, Tanks:
 - Is this section outdated?
 - Allowed to have tanks for water storage.

- Does this apply to above ground propane tanks? Above ground propane tanks are a huge fire hazard.
 - Proposed language, *“No elevated or surface tanks are permitted on any residential tract except for water storage tanks at ground level. All new propane tanks must be buried if installed after (date of acceptance of new covenants).”*
 - Section 7, Exterior Lighting:
 - Agree with most of the language suggested by the documents work group.
 - Louisa Morrissey felt that the restriction on season lighting was too restrictive and questioned whose season/holiday this implies. She suggested removing that language.
 - Leave the last sentence of seasonal lighting: *“Seasonal lighting shall be installed in a manner that does not shine directly onto other structures and minimize adverse impacts on adjacent lots”*.
 - Remove the time frame for use of seasonal lighting.
 - Section 8, Water supply:
 - Keep language with MEG’s additions
 - Section 9, Parking:
 - Keep as written
 - Section 10, Sanitary systems:
 - Keep as written
 - Section 11, Vehicular Use:
 - Survey results show that 70% of respondents wanted to be able to recreate on their own personal property.
 - Need to differentiate between recreating on the MSR roads verses recreating on personal property.
 - Suggested language: *“use of recreational motorized vehicles will be restricted to personal properties or to travel on the MSR roads to access properties or the BLM.”*
- Louisa Morrissey will incorporate the proposed language changes and get the updated document back to the Board members.

Chris DeSantis, lot 12: Need to finalize letter and get it sent out.

Bill Slavinski, lot 17: Need to notify again that he needs to remove the structure by July 1st or he faces fines.

Mountain lion letter to Board: Jenn

Next meeting will be July 12, 2022 7 pm

Meeting adjourned: Gary Starr motioned to adjourn the meeting. Matt Graham seconded the motion. Motion passed unanimously. Meeting adjourned at 9:38 pm MST.