

**Draft of Meeting Minutes**  
**Mountain Springs Ranch HOA Board Work Meeting**  
**Monday April 3, 2023, 7 pm MST via Zoom**

Meeting called to order at 7:05 pm MST

- Rules of meeting decorum: Raise your hand and wait to be recognized by the President for your turn to speak. Limit comments to 3 minutes. Do not interrupt the member with the floor. Be respectful of all members. No abusive language. If there is disrespectful or abusive language, there will be one request/warning to change behavior or language. If the behavior continues the person will be removed from the meeting.

Attendance

- Board members: Matthew Graham (President), Cyndie Rippy (Treasurer), Louisa Morrissey (Secretary), Jennifer Tomsen and Chris Fedrizzi (members at large)
- Community Members: Rob Agnew (Lot 4), Christy Milner (Lot 10), Chris DeSantis (Lot 12), Michael Green (Lot 14), Sean Elias (Lot 16), Carrie Clark (Lot 18), Jon Zalinski (Lot 36) and Ed Walters, neighbor.

Community member comments. (Please limit to 3 minutes and keep comments concise and constructive)

- Sean Elias:
  - Wanted to point out that the recent results of the survey indicated that 42.4% of respondents were in favor of keeping subdivision. Suggested that this percentage is significant enough to keep the ability to subdivide.
- Christy Milner:
  - Asked how many respondents there were to the survey.
  - Since the survey was anonymous, how would we know if someone did not vote twice.
  - Agreed with Sean's statement regarding the subdivision of lots.
  - Expressed her opinion that CCIOA requires 75% of the membership to approve.
  - Subdivision of lots should be a separate vote.
- Matt Graham:
  - While we don't know the actual names of the survey respondents or that one lot did not respond twice, the comments attached to the responses were pretty singular. He feels confident that the feedback received was one lot one response.
  - The survey is not a vote, but designed to show trends and be informative to the Board.
  - The goal is to continue to work diligently toward ratification of the new Documents to make our documents compliant with CCIOA.
- Ed Walters:
  - Noted that in a previous meeting Christy Milner implied that the previous owners of the Black Bear Ranch, the Longoria family, were developers. Mr. Walters wanted to correct this and stated that the family invested in the land and were good stewards of the land. They did not develop the land or subdivide.
  - Noted that he considers developers as those that take land and make more lots.
  - Mr. Walters commented on the subject of subdivision within MSR:
    - The Road is not a County road and does not meet the specs for the County.
    - Any subdivision is going to result in increased traffic and increased impacts on the Road and water.
    - It is common that an impact fee is assessed on development of new lots to offset the problems of more traffic.

- If subdivision is allowed, Mr. Walters suggested that the HOA may impose impact fees and that the HOA should have guidelines to protect other community members. These guidelines could include providing adequate water and sewer; placement of any new roads and the impact of those roads on neighbors. If a new lot does not have adequate water, there would be more impact on the road from trucks hauling up water.
- If subdivision is allowed, there should be funds to support the increased traffic and impacts on the road and keep the road safe.
- Cyndie Rippy:
  - Reiterate Ed Walters comments.
  - The current covenants allow for one home and one guest house on each lot. If subdivision was allowed that would mean up to 4 homes on a 35 acre lot.
  - She is also concerned about the increased pressure on wildlife and the decrease in the wildlife habitat.
- Louisa Morrissey:
  - Understands the issue of property rights.
  - Concerned about impacts on the road, water supplies, wildlife.
  - Big issue that impacts the community as a whole: our lifestyle, the remote feelings that many of the MSR residents moved here for, neighbors who are already being impacted by the current subdivisions and the road.
- Chris Fedrizzi:
  - Concurs with comments from Ed Walters, Cyndie Rippy and Louisa Morrissey.
  - Additional homes would mean increase fire hazard.
  - Supports the idea of an impact fee.
- Chris DeSantis:
  - If anyone has any questions regarding the definition of a recreation cabin in Garfield County is encouraged to talk to him.
- Matt Graham:
  - Currently we spend about \$60,000 a year on the road.
  - If all 43 lots were developed this would bring another \$60,000 of damage to the road.
  - The traffic on the road would become exponential in its impact.
    - The cost would not be linear but would increase dues substantially for all lots.
    - The road does not have the infrastructure to support that amount of increased traffic
    - The road would not be safe.
  - Noted that people bought up here with the right to subdivide.
  - Residents may not plan to subdivide but do not want to be told how to use their land.
  - Results of survey 60/40, very split.
  - Suggested a grandfather clause as a compromise.

Approval of meeting minutes from March 20, 2023

- Chris Fedrizzi motioned to approve the minutes. Louisa Morrissey seconded the motion. The motion was approved by all Board members present.

## MSR documents review

Matt Graham asked that the conversation be concise and constructive.

Louisa Morrissey suggested that community members wait to voice their comments until the end of the discussion or put their comments into the chat or in an email to the Board.

- Covenants language review and revision based upon feedback.
  - Legal definition of the land:
    - Mary Elizabeth Geiger, the HOA lawyer researched the legal definition and suggested to put it as an exhibit at the end of the Covenants.
  - Based upon feedback from the community, the Board has identified some areas that need further review:
    - Article I section 1: Purpose and general requirements. The word “recreational” was removed from the original covenants in the sentence, *“It is the intention of this instrument that the lands within Mountain Springs Ranch be developed and maintained as a highly desirable rural residential area.”* Discussion followed:
      - There was no intention to prevent or prohibit recreation in the community.
      - There was concern that the inclusion of the word recreation in the purpose and requirements could be interpreted that the HOA was required to develop and provide recreational trails and opportunities to the membership.
      - The HOA has never created or maintained recreational trails since its creation.
      - The argument is semantic.
      - The word “recreational” may make it potentially more difficult in the interpretation and enforcement of “nuisance” if someone recreating was causing a nuisance.
      - The language has been in the Covenants for 40 years so leave it there.
      - Taking the word “recreational” out changes the character of the community.
      - Are we opening ourselves up to a broad interpretation of “recreation”?
      - Other changes to the covenants remove current restrictions on what members may do on their own lots and allow property owners to create recreational trails and recreate on their own properties.
      - Recreation is allowed on the MSR roads and in the BLM.
      - Matt Graham made a motion to remove the word “recreational” from this section. Jennifer Tomsen seconded the motion. The motion was approved by all Board members present.
    - Article 1 section 3: No nuisance clause
      - This is a clause written and recommended by Mary Elizabeth Geiger, the HOA’s lawyer.
      - There is a legal definition to the term nuisance.
      - Two mentions of “nuisance” in the document.

- A definition of “nuisance” is helpful for residents and potential buyers to understand what it means and avoids misinterpretations.
  - Matt Graham made a motion to consult with Mary Elizabeth Geiger and put the legal definition of nuisance in Article II under definitions. Louisa seconded the motion. The motion was approved by all Board members present.
  - In the definition add “nothing in this definition is intended to differ from applicable law”
- 
- Article V section 1C: *“as of the effective date all new construction greater than two hundred (200) square feet and requiring utilities must obtain a building permit from Garfield County and comply with Garfield County building codes. Prior to construction, the builder must submit to the Architectural Committee a valid building permit from Garfield County”*.
    - Per the results of both the survey presented to the community last spring and the most recent survey, it was decided to keep this language.
- 
- DRAFT
- Article V section 5 trees and landscaping (and allowing for personal recreation trails on properties):
    - Noted that the proposed covenants relax the current restrictions.
    - Property owners may create personal trails and do fire mitigation on the entirety of their properties and well as have reasonable landscaping on up to 2 acres around the primary residence.
    - Members can create paths for personal trails and recreation.
    - Could recreational trails become a nuisance?
  
  - Article V section 11: Vehicular use:
    - Proposed language in the Covenants relaxes current restrictions.
      - Removed “joy riding”
      - Can use vehicles for recreation on personal properties.
      - Permits use of recreational vehicles on the road to travel from property to property and to the BLM
      - Is this a limitation on using recreational vehicles on the road?
    - Check the cited Colorado statutes per definition of a recreational vehicle.
    - Do we need to have the statutes referenced in this section or simply remove them.?
  
  - Article VI section 6: Subdivision discussion points:
    - This is a very divided issue with no clear majority.

- Shall we have a grandfather clause that allows subdivision of currently owned lots and any lot purchased up to a defined date, but lots purchased after that date would not be able to subdivide?
  - Shall we have the community vote separately on this issue?
  - Carrie Clark noted that Mary Elizabeth Geiger advised against “piece-mealing” the Covenants and recommended that the Documents be voted on as a whole.
  - The membership needs to have the opportunity to clearly define what they want in a separate vote and democratic process.
  - Matt Graham made a motion to ask the community for a true vote regarding subdivision. The Board would use the result of the vote to decide the wording of the Covenants in this section. A vote will be sent out to the membership this week and there will be three weeks to respond. Chris Fedrizzi seconded the motion. The motion was approved by all Board members present.
  - Timeline and plan are needed.
    - Send out for a vote by the end of April or in May?
  - Voting must be done properly and following the correct procedures for calling a special meeting, voting by proxy etc. Get guidance from Mary Elizabeth Geiger to make sure the proper procedures are followed.
  - Louisa Morrissey made a motion to remove the language about being able to subdivide a lot as long as it was joined to an adjacent lot. The language was put in as an attempted compromise to allow subdivision but not increase pressure on resources, the road or the environment. However, it was misunderstood and confusing. Matt Graham seconded the motion. The motion was approved by all Board members present.
- Article VI section 7: Combining lots
- The language regarding assessments was inserted to be consistent with the rest of the document (Article III section 5). However, it was misinterpreted. Louisa Morrissey made a motion to take out this language and leave the original language of this section as it is in the current Covenants. Cyndie Rippy seconded the motion. The motion was approved by all Board members present.
- Article VI section 9: Open burning.
- The current Covenants do not allow any open burning.
  - The proposed Covenants allow open burning with guidelines to prevent wildfire.
  - Jeff Fedrizzi suggested added language: *“The area in and around brush and/or log piles burned in the allowable winter prescription should again be monitored in the spring multiple times as residual heat and/or burning roots have been known to exist throughout even severe winters or snowpack.”*

- Matt Graham made a motion to accept this language. Cyndie Rippey seconded the motion. The motion was approved by all Board members present.

- Article IX: Variances discussion points.

- This article is in the Architectural review area in the current Covenants. The current article reads:

*“Variances. Where circumstances such as topography, location of property lines, location of trees and brush, or other matters require, the Architectural Committee may, by a two thirds vote, allow reasonable variances as to any of the covenants contained in this instrument ,on such terms and conditions as it shall require, provided that no such variance shall be finally allowed until 30 days after the Architectural Committee shall have mailed a notice of such variance to each Member of MOUNTAIN SPRINGS RANCH HOME OWNERS ASSOCIATION. In the event any three Members shall notify the Architectural Committee in writing of their objection to such variance within said 30-day period, the variance shall not be allowed until such time as it shall have been approved by a vote of at least two-thirds of the votes entitled to be cast at an annual or special meeting of the Members of MOUNTAIN SPRINGS RANCH HOME OWNERS ASSOCIATION*

DRAFT

- Last year a legal matter came up concerning this clause because on one hand it talks about circumstances of topography, location of property lines, location of trees and brush, or other matters require. At the same time the clause states that the Architectural Committee (which is the same as the Board) may by two thirds vote, allow reasonable variances as to any of the covenants contained in this instrument.
- Mary Elizabeth Geiger, the HOA lawyer, interpreted this clause as meaning that the Board may allow reasonable variances to any of the covenants.
- To prevent confusion in the future, the Board removed the language about circumstances such as topography, etc, kept all of the remaining current language and placed this section in its own article. The language reads:

***Variances.** The Board of Directors may, by a two-thirds (2/3) vote, allow reasonable variances as to any of the covenants contained in this instrument, on such terms and conditions as it shall warrant, provided that no such variance shall be finally allowed until thirty (30) days after the Board of Directors shall have mailed a notice of such variance to each Member of the Association. In the event any three (3) Members shall notify the Board of Directors in writing of reasonable objections to such variance within the thirty (30) day period, the variance shall not be allowed until such time as it shall have been approved by a vote of at least two-thirds (2/3) of the votes entitled to be cast at an annual or special meeting of the Members of the Association.*

- Mary Elizabeth Geiger has proof read these documents several times and has not noted anything illegal in having this article.
- Christy Milner and Chris DeSantis expressed their opinion that they think this section is illegal.
- The Board can clarify with the HOA attorney, Mary Elizabeth Geiger.

- This language allows for flexibility to respond to unforeseen circumstances so that members can enjoy their property.

#### Final member comments:

- Sean Elias: Why have another vote on the subdivision issue when the proposed documents did not pass last fall?
- Matt Graham: How does the Board know that a “no” vote against the proposed documents was specifically a “no” to restricting subdivision? The Board cannot know unless there is feedback.
- Chris DeSantis: variances for Architectural committee is ok, but not for all of the Covenants.
- Christy Milner:
  - Variances (see above). Variances should only be allowed for building.
  - Follow proper procedure for special meetings and voting.
- Matt Graham and Louisa Morrissey:
  - The Board intends to consult Mary Elizabeth Geiger and follow her recommendations regarding procedures and follow the correct procedures.
  - Our current covenants are not in compliance with CCIOA and Mary Elizabeth Geiger has strongly encouraged us to get the new covenants passed so we can be compliant.
  - Our current Covenants expire in about a year and a half.
  - We can bring the Covenants to a vote before the annual meeting through having a special meeting and following the correct procedures for holding the meeting and voting.
- Cyndi Rippy:
  - Getting the information from a vote regarding subdivision is a democratic process.
  - We have been working on the document revision for 3 years, all meetings have been open to all of the membership, they have been transparent.

#### Schedule for community review and feedback and bringing the documents to a vote.

- Review the proper procedure for calling a special meeting and voting by proxy.
- Send out a vote by proxy regarding the subdivision issue by the end of this week with a special meeting announcement.
- Give members 4 weeks to vote.
- The outcome of the vote will direct the language in the Covenants regarding subdivision.

Next regular Board meeting: set for Monday April 17<sup>th</sup> at 7 pm MST via Zoom (in two weeks).

#### Meeting adjournment

- Matt Graham made a motion to adjourn the meeting. Louisa Morrissey seconded the motion. The motion was approved by all Board members present.
- Meeting adjourned at 8:30 MST