

December 14, 2021

6:00 p.m.

325 Anglers Drive, Steamboat Springs, Colorado

Attendees: Kathy & Marc Bertrand, Matthew Caron, Thomas Clapsaddle, David Fowler, Carol & Kevin Gilman, Annette & Lonny Gorham, David High, Lynne Kirby & Jeff Steiner, Bradley & Courtney Moline, Patricia Moon, Reed Shafer, John Skovgaard, Brian & Jerry Thornton, Jessica & Paul Underwood.

Call to order at 6:00 p.m.

Lynne Kirby opened with news from attorney Jill Brabec that the binding effects of the Articles of Incorporation of the Fox Estates Homeowners Association expired in January, 1999. Our first task is to shore up the HOA's organizational documents.

1. *Articles of Incorporation.* The binding effect of the Articles has expired but not the Articles themselves. Lynne has been filing periodic reports with the Colorado Secretary of State and the HOA is currently in good standing. The HOA has essentially been in operation for the past twenty years although the owners were not bound by the terms of the Articles.
2. *Protective Covenants.* Originally written by the Fox Brothers and adopted by the HOA in 1970, the Covenants contain a clause that provides for an automatic extension for five terms of ten years each. The Covenants act as an agreement between landowners, and are recorded in Routt County's real estate records.
3. *Bylaws.* The Bylaws are the HOA's "operating manual." We need to rewrite the Bylaws because there are currently outdated and contradictory terms regarding quorum requirements, billing frequency, and allocation of votes and assessments per owner. Additionally, Colorado now has the Colorado Common Interest Ownership Act which requires responsible governing policies.

The takeaway is that we cannot replace the water tank until we update the organizational documents. The attorney's estimate is \$5,000 to \$10,000 to do so. There is a need to set up a three-to-four person committee to canvass the residents to determine which items in the Covenants we wish to keep and which are obsolete. Possible methods of collecting residents' opinions include: Survey Monkey, one-on-one meetings, group meetings. The most economical option would be to have someone acting as a liaison between the residents and the attorney who will prepare a draft of the proposed Bylaws for the attorney's review. Lynne has prepared a seven-page outline and a meeting is scheduled in January with Jill Brabec. One of Lynne's suggestions is to combine the secretary and treasurer offices, perhaps calling the title "financial secretary." Also the architectural control committee members need to be separate from the board. As originally conceived by the Fox brothers, the board was responsible for electing members of the architectural control committee.

David High introduced the subject of the road's status with the county and how it relates to the HOA. For example, the HOA does not need to address parking issues and the like. Discussion of where the county maintenance of the road ends followed. Walter Florquist told David High that the road originally ended at the Timbers access road. Over the years, the plow drivers began plowing further up the road. The road has informally been treated by Routt County as a county road, and the county has performed grading and fixed the culvert.

Brief discussion of paving the road ensued, however, the subject was determined to be moot because this meeting was not "official" due to the noncompliant status of the organizational documents. Kevin Gilman clarified the difference between and roles of the Articles, Covenants, and Bylaws, emphasizing that the Covenants need to be rewritten. Kevin, with his background in property management, could be of help there.

Discussion of financials followed, specifically the merits of raising the water fee versus assessment. If the HOA does nothing but pay Tim Gibbons, pay the electric bill, and pay filing fees, then it will have about \$3,000 per year left over. That does not include \$3,000 to \$4,000 to treat the road with magnesium chloride, or to spray for mosquitos. An assessment might be better for water tank replacement purposes. David High suggested that raising HOA fees should be for operational expenses. He does not recommend that the HOA be in the position of retaining funds for an uncertain purpose. The HOA needs to ascertain the cost of the water tank replacement and have a more specific financial plan. Paul Underwood voiced concern that the HOA would not qualify for a short-term loan in the event of an emergency due to its noncompliance. The \$35,000 special assessment in 2005 was discussed, and the desire to have a financial cushion versus preference to keep funds for homeowners' investment purposes until they are needed. Reed Shafer stated that the need for funds to cover the attorney fees at the end of next quarter is a certainty. David High mentioned that Kevin Gilman previously helped fill out the grant request, but any future grant funding is an unknown factor. The engineer could charge \$56,000 to \$85,000 for the water tank replacement; there are many ways that the project could be approached.

Felix Rauscher's vacant lot was touched on; it is the only lot which does not currently pay HOA fees. A brief discussion of unfair treatment to renters and best way of assessing fees followed.

John Skovgaard presented information from Tim Gibbons to consider:

1. *Water rights.* The HOA needs to determine its current water right status and whether augmentation is necessary. The engineer could assist with this.
2. *Well head.* The area around the well head needs to be excavated and proper drainage installed. Springtime discoloration in water is due to leaching and it should not be difficult to fix. There is an excavator we have worked with over the years who is familiar with the situation.

3. *Water tank replacement.* Discussion of expense of hiring an engineer versus an experienced excavator. David High states that the engineer has quoted \$23,000.
4. *Easements.* Discussion of what would be needed if we were to remove the steel tank, and the potential existence of contaminants, and EPA requirements. We could leave the tank where it is and put in new fiberglass tank. Walter Florquist suggests a 50,000-gallon tank, however, Tim Gibbons ascribed the recent odd smell in the water to lack of water use by residents.
5. *Curb stops.* Ten years ago there was a leak issue and it took a lot of time to find the valve and replace it. Tim Gibbons recommends having shut-offs located close to the road. We should probably get a second key and keep it by well house. Brian Thornton has a water key.
6. *Fire hydrants.* Some residents have requested installation of fire hydrants. Hydrants would be expensive because the water lines would need to be replaced and a pumping system would be required to get enough pressure. We would need to go with a larger water tank as well. David High noted that his insurance policy did not have more favorable terms were fire hydrants to be installed. Discussion of logistics in the event of a fire. Brian Thornton spoke with fire marshal Doug Shaffer who was confident in the fire department's ability to be effective for Fox Estates, except in the event of a wildfire.
7. *Spare water pump.* Tim Gibbons suggests we have a spare water pump on hand in the event of failure due to supply chain uncertainty. He did not know how much a new pump would cost. Replacement would also be a process.

David High said that it would be a good idea if more people than John Skovgaard and Walter Florquist have an understanding of the water system. Paul Underwood and David Fowler volunteered to help with water issues. David High suggested that the water committee have regular meetings.

David High introduced the remaining topics:

1. *Magnesium chloride.* Discussion of dust abatement and Patricia Moon's preference for no application in the cul-de-sac due to the boggy effect from the lack of sunlight. David High stated that the price has been reduced by half to \$2,200, and when the county calls for the HOA's decision he is inclined to decide to say yes to magnesium chloride in 2022.
2. *Paving the road.* Kevin Gilman asked whether residents felt that paving would benefit property values. Country Green was offered as comparison, however they are a private road. Would the road remain under county maintenance if paved? The estimate for paving several years ago was \$250,000. Paving would benefit people who are not assessed. An attorney in Denver was approached by Kevin Gilman about using a local improvement district to help with the water and road issues, but the attorney was not enthusiastic. Implementation would cost \$40,000 and the county would have to approve it. Discussion of mechanism of a local improvement district.

David High recommended that the county be approached first so as to not lose the free snowplowing. It is possible that the county would not object because of the current re-grading expenses.

3. *2022 fees.* The idea of implementing a new HOA fee to take effect in January was floated. The consensus was that \$100/month would be a good start. Kevin Gilman however recommended that we continue with status quo till new documents are drafted and the board agreed.
4. *Trails.* Some residents have expressed interest in creating non-motorized trails to get people off the road. Concern was voiced over liabilities, cost, and exposure to adverse possession claims.
5. *Election of new board.* Paul Underwood moved for David High, Lynne Kirby, and John Skovgaard to stay in their current positions for another year. Reed Shafer seconded the motion. No objections. Lynne Kirby voiced the need for some help with Quickbooks.
6. *Lot 26 easement issue.* Lonny Gorham will work with his attorney for a solution and present it to the board.

In closing, it was decided that a document committee consisting of three-to-four people will determine issues such as fences, chickens, shooting guns, and permission to remove trees. Kevin Gilman volunteered to convert the existing documents to Word format. Kathy Bertrand and Reed Shafer volunteered to be on the document committee.

Meeting adjourned at 7:18 p.m.