**KINGS ROW HOMEOWNERS ASSOCATION**

**ANNUAL MEETING**

Missouri Heights Community League

November 7, 2015

Pursuant to notice, the annual meeting of the Kings Row HOA was held at the Missouri Heights Community League School House, Carbondale, Colorado, on Saturday, November 7th, 2015 beginning at 6:00 pm.

Board Members Present: Peter May, Carolyn Dahlgren, Antonia Cooper, Gerald Fielding

Recording Secretary/Administrative Assistant: Krystle Beattie

The following proxies stated who was allowed to vote the proxy and the lot represented:

* Peter May Lots: 5, 11, 14, 26, 33, 39, 40, 42, 46,
* Gina White Lots: 47
  + 10 proxies total were received

The following HOA members were present and able to vote:

Peter May & Carol Nieuwenhuizen Lot 12

Carolyn Dahlgren Lot 2

Gerald Fielding Lot 16

Antonia Cooper Lot 9

Sylvia Wendrow Lot 19

Rich & Jean Leety Lot 34

Molly & Toby Bartholow Lot 38

Tim & Mimi Tombatore Lot 48

Jo Ashton Lot 8

Patrick & Becky Chase Lot 3

Tom Hazard Lot 17

Ed Phillips Lot 20

Kathy Sydoryk Lot 10

Rachel Dyaton & Chip McCory Lot 32

Liz & Bill Phillips Lot 44

Susan Cuseo Lot 23

Krystle Ortell, Recording Secretary announced that a quorum was present.

“Meeting Packets,” copy attached, were handed out.

**2014 Meeting Minutes**

Toby Bartholow motioned to approve the meeting minutes from November 1st, 2014; Page Cook second; all were in favor.

**Revenue Ruling 70-604**

Chip McCory motioned to approve the draft Association Resolution dealing with IRS revenue ruling 70-604, included in the Meeting Packet. The Resolution allows unused 2015 assessments to be applied to 2016 income. Bill Phillips provided second to Chip’s motion. The membership discussed the small amount of assessment dollars that could be refunded and all voted in favor of the motion. Peter May signed the Resolution as drafted.

**President’s Report**

Peter May reviewed 2015 Board work, requesting Tom Hazard, G. R. Fielding, Carolyn Dahlgren and Krystle Beattie to provide specifics and explain documents included in the Meeting Packet:

1. Water Tank: Water tank sandblasting and internal and external refinishing were completed using Tnemec (“cement” spelled backwards) paint, a product guaranteed for 15 years. The Association’s contract with Mike McGowan was increased by $400.00 to cover a Board-requested change in color.
2. Website: The Association’s new website, developed by Braeden Flaherty using “Wordpress,” is up and running. Signed Board Resolutions still need to be uploaded.
3. Weed Control: State law requires control of noxious weeds. The Board contracted with Mt. Lawn to spray the common areas/open space a couple of times; however, as 2015 was a bad year for weeds, the spraying was only partially successful. The Board reminded the membership that control of weeds on lots is the responsibility of owners. County weed managers rent sprayers, usable on ATV’s, and run “cost share” programs for purchase of poison.
4. Back Flow Devices: Current State law requires back-flow preventers on all “integrated” systems, i.e., sprinkler systems that have potable and non-potable water flowing through the same pipes, tubes or hoses. State licensed professionals are supposed to inspect the devices annually, but it is not clear if the State will enforce this requirement of the law. Because we run a Community Water System, the Association could be held responsible for contamination due to a faulty or nonexistent back flow device. If contamination happens, the water tank and all common and individual lines would have to be drained. Individual homeowners need to install and inspect backflow devices. The Board will inform lot owners when updated information is received regarding State required inspection.
5. Irrigation System: Tom Hazard performed minor repairs on the irrigation system as a volunteer. In the spring, we will hire his company to fix a leak on Prince Drive. The leak is in the road right-of-way, and the County Road and Bridge Department requires us to fix it. Plus, we do not want to waste water or risk damage to the road or the ditch. Two items of good news: We had more ditch water than expected, and our mid 1990’s Colorado Water Conservation Board loan will be paid off as of yearend 2015.
6. Dogs at Large: Peter reported there were a number of dog-related complaints in 2015. The Covenants require dogs to be either on a leash or under “effective” voice control. The Board encourages neighbors to talk with each other about dog issues. Board involvement tends to increase conflict. If homeowners can’t reach a resolution, or the problem persists, then the Sherriff needs to be notified by the complaining party. The Board recommends a change in the Covenants to refer to County regulation. The Board reminded homeowners that owners must not let their dogs harass wildlife, per Colorado law.

**Budget for 2016**

Krystle Beattie presented the Board recommended 2016 budget included in the Meeting Packet. The two areas that Krystle believes will see an increase in 2016 are Insurance and Legal Fees. Insurance will increase if it is found that the HOA is not currently insuring common areas/open space. Legal Fees will increase because of the covenant rewrite and ongoing water court cases.

In the ensuing discussion, an owner commented that the reserve account seems high. Per the 2014 reserve study, the reserve account is on track to handle the aging infrastructure of the HOA and the improvements that will need to be made over the years. The Board’s goal is never to need a special assessment, keeping reserves at an adequate level. Members also discussed the increase in administrative fees, i.e., “bookkeeping.” Peter explained the extra tasks he asked Krystle to do during 2015, tasks he could not accomplish while working full time. The Board and membership then briefly discussed the need for paid work when volunteer labor is not available.

Molly Bartholow motioned to approve the 2016 budget, as recommended; Chip McCory second; all were in favor.

**Open Space**

Subdivision Plats showing five parcels owned by the HOA and Assessor’s Parcel Maps showing properties south of County Road 102, were available for viewing on walls and, in small format, on tables. Descriptions of HOA-owned property were included in the Meeting Packet.

At the Board President’s invitation, Mimi and Tim Trombatore reported on legal advice they received regarding use of the informal trail that is located on their lot (lot 43), behind their Kings Row, South home. The Trombatore’s shared information given them by Michael Feigenbaum, their real estate attorney, regarding potential liability to other homeowners and the HOA, as well as to themselves, and information about how to protect their ownership from establishment of a “prescriptive” easement for the trail. During this discussion, Bill Phillips summarized Colorado law on “Prescriptive Easement” for the membership: If a private landowner does not either explicitly give permission for use or explicitly prohibit use of the trail over their land for an 18 year period of time, their “acquiescence” in the use might result in the landowner giving up the right to make people stop using their land. The law says a “prescriptive easement” over the land is granted to the trail user. Bill does not think the trail has been used for 18 years, but does think the “running” of the “prescriptive period” is getting close. In response to their lawyer’s advice, including the easement information received from Mr. Feigenbaum consistent with Bill’s summary, the Trombatore’s plan to place a sign on their property advising users that they are entering/exiting private property, warning users of any dangers and of the “at-your-own-risk” quality of trail usage. They do not want to disallow walking and horse back/bike riding on the informal trail, just protect their ownership rights and limit potential liability.

The Board and the membership also discussed use of the five parcels shown on the Subdivision Plats as “dedicated” to “open space.” Carolyn Dahlgren showed the membership the location of the 5 parcels on the Subdivision Plats and Assessor’s Parcel Maps, pointing out the west side path; the informal trail connecting the path and the large southeast open space parcel (showing the end of the path on lot 44 and the corner of the open space on lot 40); the small (.698) triangle of land south of the County Road where the road curves to the east; the “diagonal” parcel where the Public Service Company’s distribution lines are located; and the Water Tank Parcel, noting G.R, Fielding’s (Lot 16) long lot line east of the water tank. Most people did not know that the trail discussed by the Trombatore’s is over land owned by the owners of lots 40 – 44, not land owned by the HOA. Further, most lot owners did not know that the triangle of land southeast of the Someday Range and north of the “windmill property” is owned by the HOA.

The membership is generally aware than non-residents use the open space, including neighboring landowners outside of the subdivision. The membership directed the Board to negotiate a “use-agreement” or “license” of the open space with the owners of Someday Ranch, known to use HOA-owned property (and the informal trail) for horse riding, including commercial use. The HOA cannot give permission for use of the individually owned land; only the lot owners can grant permission to use the unofficial “connector trail.” The membership also discussed the placement of signs on each of the five open space parcels regarding HOA-ownership and “at-risk” usage. Mimi Trombatore moved to put up signs; Richard Leety second; all were if favor. The Board will place the signs, after legal review of the language and ARC and Board action on content and location.

The membership also directed the Board to communicate with the owner of the “windmill property” and determine if their personal property is located on their driveway/private road (“Nighthawk”) or on the HOA’s open space parcel. If the farm implements, windmills, plantings, etc. are located on Association owned property, the membership wants the Board to discuss a license or use agreement, giving permission for use of HOA-owned land and providing satisfactory insurance coverage to the Association and its members.

During the above-noted discussions on use of HOA and individually owned property, the Trambatore’s reported their lawyer’s advice that a typical license agreement provides for permissive use of the property (use of the trail or the open space parcel), disclaims any other interest in the property by the user, is revocable by the grantor (owners of lots 40-44 or the HOA), and requires protections such as insurance coverage and indemnification in the event the landowner suffers damages. The Board will need legal advice on how to structure the various agreements.

**Nomination of Board Members**

No additional homeowners volunteered to be on the Board. Peter May, Carolyn Dahlgren, Antonia Cooper and Gerald Fielding have all agreed to stay on the Board, however, Peter May will step down as President. Officers will be voted on at the next monthly Board meeting.

**Covenants**

Board members repeated the opinion that the covenants need to be updated because Kings Row is a “mature” subdivision, yet many of the covenants were written in 1970’s when Kings Row was new. Further, the Covenants do not contain information needed by property owners on domestic and ditch water, nor on Onsite Wastewater Treatment Systems. G. R. Fielding explained the differences between septic and evapo-transpiration systems, the impact of the two on our water rights, and the need for lot owners to keep up with maintenance on their OWTSs.

The Board also expressed the opinion that a number of covenant sections cannot be enforced as written. One example is the current requirement that every removal or addition of a tree is supposed to be reviewed by the ARC and approved or disapproved by the Board. The Board’s goal was to completely rewrite enforceable and easily understandable covenants in 2015; however that did not happen. Carolyn Dahlgren thanked the Board members and other volunteers who created and recorded the “revised and restated” covenants in 2009. She reviewed the progress to date, including re-organization for readability. The membership discussed how owners would like to receive draft covenants. Owners agreed that Krystle should email draft covenants as sections are rewritten, rather than waiting until the document is finished. The Board will give homeowners a limited time to provide feedback, at which point the rewritten covenants will be sent to the HOA attorney for legal review if needed. The members directed the Board to distribute ARC and Open Space sections first. Homeowners want to have a draft covenant section added to the website, not just receive individual emails. Molly Bartholow, Patrick Chase, and Mimi Trambatore volunteered to review covenant drafts.

The membership made it clear that they want covenants to be enforced. A significant discussion of “ADU’s” ensued, including discussion of the term “single-family” under County regulations and on Subdivision Plats, the “unit” limitation of our Water Court Decrees, and the possibility of “grandfathering” units as a type of “nonconforming use.” Members directed the Board to write letters to owners of homes that are believed to contain illegal ADU’s and, if legally appropriate, record a document in Garfield and Eagles Counties notifying all that no ADU’s are allowed in King’s Row.

**Adjournment**

Richard Leety motioned to adjourn at 8:10 pm; Peter May second; all were in favor.