

## **Elk Falls Property Owners' Association Minutes of Annual Meeting – October 7, 2007**

The General Meeting of the Elk Falls Property Owners' Association was called to order at 2 p.m. on Sunday, October 7, 2007.

Board Members present were: Vicky Sparer, president; Tom Duffy, member-at-large; Sue Patterson, secretary; Tom Schuster, vice president; Harry Nuce, member-at-large; and Robbie Robinson, architectural.

### **Introduction**

Ms. Sparer explained that this meeting was called in order for the EFPOA to comply with current Colorado law for homeowners' association regarding securing of proxies and having a quorum.

There was not a quorum of one third of voting members present for the regularly scheduled 2007 annual meeting. In order to conduct business at the meeting, proxies were obtained via telephone from members who were not present. At the time that enough proxies were obtained (by telephone permission) to make up a quorum, the meeting proceeded. Following this meeting one member complained to the Board that there were not enough voting members of EFPOA (including proxies) to have a quorum necessary to conduct business because the telephone proxies were not valid according to new Colorado laws. New Colorado law concerning homeowners associations requires all proxies to be written and signed prior to the start of the annual meeting. Proxies may not be accepted after the beginning of an annual meeting. To comply with this law, it was necessary to call a General Meeting of the membership to vote on two items that were originally passed at the July 8, 2007, Annual Meeting.

Ms. Sparer also explained that because many people do not attend the annual meeting or submit proxies, it is very difficult to get a quorum of one third of the membership. Colorado law only requires that twenty percent of the voting membership be present to constitute a quorum. The Board of Directors amended the Bylaws to change the quorum requirement to twenty percent of the voting membership. Note: According to Colorado law, bylaws may be reviewed and changed by a board of directors at any time by a vote of the majority of the board.

### **Order of Business**

There were two items of business on the agenda for this meeting. The first item of business was election of the 2007-08 EFPOA Board.

### **Election of new EFPOA Board**

The candidates were given an opportunity to introduce themselves and tell why they were interested in serving on the Board. Nominations were also taken from the floor. Nominees for the Board were Cris Groves, Carolyn Hartshorn, Russ Mears, Harry Nuce, Bill Patterson, Sue Patterson, Steve Sparer, Vicky Sparer, and Janice Spikes.

The vote was taken by secret ballot. Members received a ballot with the names of the nominees to vote. The ballots were then collected in a basket. Names of volunteers to count the votes were placed in a box and were drawn by one of the general membership. Jim Winzenburg and Bob Phelps were the volunteers drawn to count the votes. The nominees with the highest number of votes would make up the new Board.

Results of the election by secret ballot and the new 2007-08 EFPOA Board members are as follows: Sue Patterson – 73; Bill Patterson – 72; Janice Spikes – 69; Cris Groves – 66; Vicky Sparer – 66; Steve Sparer – 66; and Russ Miers – 65. Also on the ballot: Harry Nuce – 46 votes, and Carolyn Hartshorn – 13 votes.

### **Vacating of Roads**

The second item of business was to take another vote on the issue of whether to proceed with vacating the roads via new Colorado law. This item was voted on at the July 8, 2007, annual meeting by acclamation with only four members opposed. The Board had already begun the application to vacate the roads in Jefferson County. Several Board members also met with Park County but no action has been taken.

Bill Patterson and Cris Groves made a presentation on the background of the vacating process and a list of pros and cons. Members were informed that following the presentation, questions would be taken from members. Individuals were asked to limit questions and comments to one minute and no more than three minutes.

Ms. Groves explained that vacating of the roads in the Elk Falls Ranch subdivision from county ownership has been discussed for at least 10 years. She explained new legislation allowing a county to vacate roads in an entire subdivision to a homeowners association rather than to each individual property owner became Colorado law effective September 1, 2007.

The process to vacate the roads in Jefferson County is as follows:

1. Application to vacate the roads is submitted.
2. County officials meet with the applicant (EFPOA) in a series of meetings to explain requirements and procedure.
3. On completion of all required information, a formal application and community notification is made.
4. The formal application is referred to all county departments for a period of 21 days.
5. Changes or additional application requirements are requested from the applicant.
6. EFPOA will host a community meeting to answer any questions residents may have. EFPOA Board of Directors will request that members of the Jefferson County and Park County Planning and Zoning staffs will be available to attend the meeting.
7. Planning Commission hearing is held
  - Applicant is given 20 minutes to speak
  - Organized group allowed 10 minutes to speak
  - Individuals allowed 3 minutes to speak

Mr. Patterson explained that the process for vacating roads in Park County would be similar, but has not been determined at this time. Park County staff explained that they need to confer with Jefferson County, meet with their attorney and county commissioners about how to proceed. Mr. Patterson also noted that both applications to vacate would need to be approved and submitted together because vacating affects contiguous property of the two counties. The entire process could take up to one year or more.

### **Review of Pros and Cons of Vacating the Roads**

#### **Pros of Vacating:**

- It allows EFPOA to limit access to property owners and their guests  
Partial gates and signage would be legal

Complete gates would be legal if everyone is allowed access  
Gates at Upper Ranch Road may not be allowed because of State Park access

- Property owners would be able to apply for a building permit without having to seek a variance because the roads do not meet county standards. All other existing county planning and zoning requirements are still in effect.
- Unauthorized vehicles would not be allowed on EFPOA roads
- Excess traffic would be restricted, keeping road maintenance expenses down and improving safety to pedestrians and vehicles.

**Cons of Vacating:**

- Cost to complete would be approximately \$800
- Cost of EFPOA insurance may increase
- EPA may require roads to be paved if complaints are received  
Jefferson County Planning & Zoning Director believes this will not happen since the roads were constructed prior to the passage of the Clean Air Act and would be considered to be “grandfathered”

**Questions and Answers from the EFPOA Membership**

**Q:** Can the counties require us to build our roads to county standards in the future?

**A:** County officials do not want to maintain these roads. The counties have not done anything to the roads in more than 50 years. Jefferson County has especially emphasized that they do not want to take responsibility for the roads and want to turn them over to EFPOA.

**Q:** What about surveys?

**A:** Surveys are public record and are readily available at the county offices as a resource for any individual who has interest in what would be required in an individual variance application and what they might be able to add or build on their property at the present time.

**Q:** Will the counties ever require us to pave our roads? Would we need a survey?

**A:** There is no money in the county budgets to pave rural roads. We were told that it would cost hundreds of thousands of dollars and therefore not be feasible for the EFPOA to do that. Surveys are available at the county offices.

**Q:** What about the Environmental Protection Agency? I heard that they might require paving sometime in the future because of dust that is stirred up by traffic on our roads.

**A:** Again, paving roads is very costly. Member Alan Searcy, who works for an agency that works with the EPA said paving a rural road is not likely to be considered in the future as the EPA has more serious issues to address.

**Q:** What if there is a fire? If we wanted to add on, build or replace a house or structure, could we do that under the current Jefferson County zoning rules?

**A:** There is no guarantee from the county that we could.

**Q:** What about gates and access?

**A:** As we explained, we cannot deny access to anyone’s property. However, discussion is open about partial gates that prevent access from visitors at a later date with input from our membership. Upper Ranch Road will most likely not have gates to prevent public access because the offices for Staunton State Park are on that road.

**Q:** Will State Park traffic enter at Upper Ranch Road?

**A:** At this time, State Park officials have been considering the possibility of a main entrance through the old Davis Ranch property, but there are no formal plans on paper.

**Q:** I am concerned about protection from the sheriff's department. If we have private roads will services be the same?

**A:** Yes. Conversations, especially with Jefferson County officers, indicate that nothing will be different on the ranch. They will still patrol and answer calls. They did note that at the present time they can do nothing more than post speed signs up. They do not patrol the roads now. They also recommended a neighborhood watch program.

**Q:** Will my easements stay the same?

**A:** Yes. You cannot rebuke easements that exist.

**Q:** Can a car be towed if it doesn't have permission to be on our roads?

**A:** Yes.

**Q:** Will there be signage in the neighborhood and what would it say?

**A:** Yes. Exact wording will be determined later. Signs might say "Private Property – Do Not Enter" or "This is not an entrance to Staunton State Park" to discourage trespassing.

**Q:** We have liabilities here now. Why are we, rather than the county, paying for road maintenance?

**A:** First, there will be no increased liabilities from what we have now. Elk Falls Ranch was platted almost half a century ago, and deeded with no attention paid to grading, etc., for future care of the roads. After they were put in place, the counties realized they were not up to current standards and have refused to take care of them unless the EFPOA brings them up to current county standards. That is expensive and it would take all neighbors to agree and take on the cost. Also, in the past, vacating of a road had to be agreed upon by all neighbors on a street up to the nearest cross street, which was nearly impossible to get in most cases. Under the new Colorado law, it is now an option for EFPOA to vacate all the roads within the subdivision at one time.

**Q:** Do we really think we can keep traffic out of our development?

**A:** Probably not totally, but vacating would help to keep State Park visitors going in through the proper entrance and paying fees rather sneaking in through Elk Falls Ranch. State Park officials support the idea of keeping their visitors out of our neighborhood and less damage to our roads.

**Q:** Will emergency access be available?

**A:** Definitely. Discussions about this necessity have already been discussed the sheriff's department and Elk Creek Fire officials.

At the conclusion of the questions and answers, a motion was made by Fred Wells to continue to pursue the vacating of EFPOA roads and seconded by Paul Vastola. A secret vote was taken. Votes were placed in a basket and counted by Mr. Winzenburg and Mr. Phelps. The result of the vote was 66 for vacating the roads; and 14 opposed to vacating the roads. The motion passed.

The meeting was adjourned at 4:30 p.m.

Respectfully submitted,

Sue Patterson  
Secretary