

PRELIMINARY

Elk Falls Property Owners' Association Annual meeting 7/14/2013

Call to order

The meeting was called to order by President Paul Vastola at 14:10.

A quorum was present consisting of 51 property owners personally present and 25 represented by proxies, all in good standing.

Approval of minutes from 2012

Minutes from the 2012 meeting were posted in several locations around the meeting room. A motion for approval of the minutes was made by Sam Shapiro. The minutes were approved by voice vote.

President's report

President Vastola thanked the membership for their support during the legal battle. The process would be over except for the fact that the Dunwodys appealed the case to the Colorado State Supreme Court. Paul thanked the Board members for their hard work and also thanked homeowners John Carr, Kevin O'Connel, and Christine Groves for their contributions.

Paul reviewed the history of the legal battle that has dominated the Board's activities for the last three years: In 2010 the POA was the defendant in a small claims court resulting from the moving of the mail boxes. We were awarded over \$700 on our cross complaint which has yet to be collected. In January, 2011 the access battle started after the Dunwodys blockaded the entrance roads to the subdivision. We won a temporary restraining order and just before the trial for the permanent order we had to defend the Association's covenants. We won both of those battles. In June 2011 we attempted a formal mediation process which was unsuccessful. Finally in 2012 a 5 day trial was held regarding easements over the disputed roads. We won again. We were in court another time in October and the Dunwodys were found to be in contempt of court because they would not let us install appropriate signage and maintain the roads. Finally in April, 2013, we appeared before the Colorado State Court of appeals. We also won that appeal with a unanimous opinion. As mentioned above, the next battle might be with the Colorado State Supreme Court in the unlikely event that they decide to consider the case.

New street signs have been installed at the West entrance indicating Juniper, Jensen and Elk Creek Road. No parking signs were installed by Staunton State Park in several key areas and signage near the East entrance is underway to discourage inappropriate access to park.

Parking: We are permitted to use most of the parking area in front of old lodge. With the exception of a small portion at the far north-east corner of the parking area, the paved area east of the west gate was declared to be a public road by the court.

Unfortunately we have had to deal with an austerity budget because of legal fees. The only constraint now appears to be collectables from homeowners who haven't paid their dues.

Caring for roads: The roads have recently been graded. Paul still has a dragging device for anyone who wants to use it.

Save Saturday Aug 24 for a potluck at the Davis ranch. We will supply grills.

Colorado State Parks update – Jennifer Anderson

The Staunton State Park was successfully opened on May 18! There were 25,000 visitors during the first week. Now there are approximately 4,800 visitors per week.

Highlights of the presentation and questions:

- Visitors have attempted to park along Elk Creek Road which is not allowed. New signs have been installed.
- Parking lots in the Park fill up fast and an overflow lot had had to be opened almost every weekend day.
- The Park has reached capacity (when cars were turned away) only three times so far.
- The major issue in the park with visitors has been dogs off leash which is not allowed.
- Parking in neighborhood – the little sign about a residential area beyond the park entrance will be replaced when a new sign arrives.
- People are not allowed to “sneak” in from various neighborhoods surrounding the park (ours included). The only entrance is the main entrance off of Elk Creek Road.
- For help with inappropriate parking and other issues outside the park people should call the sheriff's or state patrol's non-emergency number.
- When people ask how to get to Elk Falls: It is unlawful to enter the park through the fence. The only entrance is via the entrance station.
- Trespassing through neighbor's property: Jen will work with anyone wanting a no trespassing sign installed by park.
- Rangers are working to obtain an axillary emergency exit from the park probably through the northwest corner.

Jen thanked everyone for supporting the hot shots (fire fighters) in the park and general support of park.

Firewise Community update – Marie & Mike Hensick, Cyd Lantz, Kevin Nadeau

Bill McLaughlin

This year there were only 12 days from end of snow season until first fire. Bill noted that the state only pays for one day of helicopter and one day of fire crew for most fires. Most of the other expenses are paid for by counties. FEMA will pay for really big fires. The Lion Gulch fire (which was outside of our district) was paid for by Pike National Forest because it started on their land. There is a new record for fire danger set this year – 10% higher than when the Hayman fire occurred. Trees have suffered because of the extended drought and it will take an extended period of rain and snow to reverse that. The fire department is running a record number of calls, 144 calls in June, 60 calls so far in July. The fire station is run mostly by volunteers putting in extended hours. He doesn't know how long this can continue.

Regarding the incinerator at Shaffer's crossing: There currently is no money available; however the county has received a recent grant. The county is looking at moving it to a different location.

Will there be a fire station in park?: Insurance rates decrease if fire station exists within 5 miles of one's home. Mr. McLaughlin would love to have a fire station in the park. However he noted they are likely to lose a fire station on Conifer Mountain because of budget cuts. Therefore there is no money for a new fire station. They have three trucks over 25 years old. There will be a new ballot issue this fall to increase the mill levy (ours is half or less of most surrounding communities) to get more money for fire engines and future costs.

Finally Mr. McLaughlin noted that insurance companies are pulling out of the consumer market or making unreasonable mitigation conditions. For example, reportedly one insurance company is requiring no vegetation within 100 feet of an insured house.

Cyd Lanatz – firewise

Cyd announced the last slash collection this year will be August 10-11. She had a sign-up sheet available.

Cyd announced a new web site and suggested interested individuals visit it:
<http://ElkFallsFirewise.org>.

Fred Wells – information regarding vacation of our roads

The law on vacating roads has recently changed. The old law made vacation very complicated and potentially increased homeowner's taxes. Parts of each road were added to adjacent homeowners' property and these homeowners were taxed accordingly. The new statute allows roads to be vacated to the EFPOA which would not be liable for additional taxes because it's a non-profit organization. Park and Jefferson counties have different processes for vacation but the result would be the same. The result would be that the Association would own the roads and be responsible for the same maintenance we currently perform. Everyone who currently

needs access would still have access. However signage and/or gates could limit access by the general public. We would have control of roads.

Currently maintenance of public roads (and because they are dedicated, our roads are public) is not permitted by the County without a special permit, as per Mike Chadwick at Jefferson County Planning and Zoning. The HOA and the counties have ignored this requirement. With vacation, liability issues probably do not materially change from the current situation where the roads are improved without authorization, but as owner of the roads the Association would be have any liability related to maintenance and occurrences on the road, not individual homeowners. Since the HOA has few assets, and has some liability protections as a non-profit corporation, it is probably not a significant target for a lawsuit.

40% of Elk Falls roads are in Park County.

Ted Hammon moved that we form a committee to look into vacation of roads. Merle Lehmkuhl seconded the motion. The motion was approved unanimously. A resident inquired whether any expenditure would be available. Fred responded that according to the bylaws that the board has authority to spend up to \$500. Any additional expenditure would require approval of the membership.

– Information regarding the access lawsuit

Hopefully everyone knows the association was awarded access across the disputed roads (parts of Juniper, Jensen and Elk Falls). The district court ruling was affirmed unanimously by the State Court of Appeals. Fred discussed details of the easements and the fact that the court ruled that Elk Creek Road is a public road up to the old west gate. Beyond the West Gate, the Association, the individual plaintiffs and all Elk Falls homeowners and their invitees have access across the disputed roads owned by the Dunwodys.

The Dunwodys have appealed the ruling to the Colorado State Supreme Court. When the court will consider the case is unknown. It usually takes two to four months. Our attorneys believe the most likely outcome is that the court will refuse to consider the case. The Dunwodys' appeal is based on failure of the trial court to include Park County in as an "indispensable party" despite the fact that Park County was subpoenaed by the Dunwodys but was dismissed by the Court upon the County's request. In addition the Dunwodys argued that because the Park County commissioners didn't grant an access easement during a re-zoning case several years ago, the trial court never had jurisdiction to hear the case in the first place. The last issue was never raised until the Dunwodys' appeals began.

Treasurer's report – Renae Braun

An income and expense report including a forecast through the end of the calendar year was passed out at the meeting. The Association's financial status was audited by Bob Wallace. In summary, the Association has approximately \$16,000 in assets. This assumes that the Association is able to collect on a nearly \$40,000 bond posted by the Dunwodys to pay court

ordered costs for the access lawsuit. This is approximately the amount still owed to our attorneys. Sam Shapiro moved the report be accepted. Approved.

Road report – Suzy Nelson

Fortunately there were no huge washouts or major expenses this year but ditches filled up because of recent rains. To help decrease wash-boarding Suzy encouraged the membership to always drive slowly. There are already washboards on Lower Aspen.

We do not have a new contract with Scott at High Country Trucking for grading, etc., next year, but hopefully that can be signed this summer.

We have a two year contract with George Heywood with no price increase. He now has a deicer on his trucks that can save some plowing costs. We need to trim branches at several strategic places this summer to protect snow plow truck's mirrors.

John Carr moved the report be accepted. Approved.

Comments from Bob Phelps, secretary

Bob reaffirmed the statements of President Paul Vastola regarding how hard working and effective this volunteer Board has been over the trying previous three years. He noted that it was both a pleasure and an honor to be able to work with such dedicated, skilled, and knowledgeable people.

New business

Road vacation

Recent changes in the law regarding vacation of roads and the pros and cons of vacating our roads were discussed earlier in the meeting by Fred Wells. The Board believed that further investigation was appropriate but that because of other obligations that it was not appropriate for the Board to take on such an important additional project. The consensus was that a separate committee should investigate the details of road vacation and report back to the Board and/or to the members at next year's annual meeting.

Volunteers Renae Braun, David Crespo, Peter Petlak, and Christine Groves agreed to investigate the details of road vacation.

Community party at Davis Ranch Aug 24

The Davises again offered the use of their barn for the annual HOA picnic and pot-luck party to be held from 2-6pm on August 24. The HOA will provide disposable plates and utensils and will arrange for a grill and rent a pot-a-potty. The Davises have requested no dogs attend.

Car sticker to indicate home owner

It was proposed that we reinstitute the old car stickers to help identify cars that belong to property owners. Because of overwhelming positive response, next year's Board is charged with making these stickers available. Con Daily suggested that for security reasons we not put words on the stickers, only something recognizable to HOA members.

New faces

Eric Clinton; Eric and Patricia Spaulding; Jerry and Joann Gregory; Stan and Teresa Dodge; Rick and Cindy Henshaw; Christophe Lawrie and Susan Murphy were all introduced and welcomed into the neighborhood.

Nomination of candidates for EFPOA Board of Directors

The following individuals were nominated for the new Board for 2013-2014:

- Jaimie Smyser
- Cindy Henshaw
- Peter Petlak
- Renae Braun
- Paul Vastola
- Bob Phelps (as alternate)

No other nominations were forthcoming.

Election of Board members

As required by the bylaws, a secret paper ballot vote was held with the following results:

- Bob Phelps - 10
- Renae Braun - 70
- Cindy Henshaw - 70
- Peter Petlak - 73
- Jaimie Smyser - 73
- Paul Vastola - 73

Adjournment

The meeting was adjourned at 16:31.

Respectfully submitted,

/s/ Bob Phelps
Secretary