



NORTHMOOR ACRES HOMEOWNERS ASSOCIATION

NORTHMOOR ACRES HOMEOWNERS ASSOCIATION Annual Meeting March 22, 2014 Minutes

Call to order: The 41st Annual Meeting of the Northmoor Acres Homeowners Association held at the Johnstown community center was called to order at 9:21 A.M. by Northmoor Acres Homeowners Association president Susy Ruof.

President Ruof pointed out that there are some handouts that everyone should read through while we wait for a verification of quorum. People were asked to put their phones on silent when the meeting started.

Verification of Quorum: Quorum is 72 lots. There were 81 Lots represented in person and by proxy. Quorum was achieved.

Introduction: President Ruof outlined meeting etiquette and the procedure to be followed for the meeting: Robert's Rules of Order will be followed. The order for items in the agenda will be followed and if members have items that they wish to add to the agenda, those will be added before the meeting begins and the discussions held at the end under "Items from the Membership". President Ruof will ask for a motion and a second, and then a discussion may be held. A vote on the motion will follow. Discussion and comments will be limited to 3 minutes per person to allow everyone who wishes to have a chance to speak. The HOA meeting policy is provided on the tables and posted on the website. The membership was reminded that members may express opinions about the Board but no personal attacks, profanity or shouting will be permitted.

Approve Agenda: President Ruof presented the Agenda for approval. A motion was made and seconded to approve the agenda. The motion carried and the agenda was approved.

Introduction of Board, Thanks, Review of the Year: President Ruof welcomed the membership. President Ruof gave thanks to the Board, noted that we are "self-managed" which takes many hours and dedication to the community. We are also now a member of Community Associations Institute (CAI), which is helping us learn more technical skills about how to conduct the HOA business. The members on the Board have a combined total of 150 years in the subdivision, do our best to make decisions that benefit the whole community. On the Board we try to have a range of experience with both long-term members who provide continuity and newer people as well. The Board of Directors was introduced and a brief background was given for each Board member. Board members present were: Mike Martin, Bill Skeldum, Ginny Hersch, Shawn Rieke, Sabrina Schnitzler, Joanne Stroud, Deb Coulson, Cindy Eldenburg, Susy Ruof. The spouses of the Board members were also thanked.

President Ruof gave additional thanks:

- Anne Calvert was recognized and thanked for her service to the community as past-Treasurer and long-time Board member.

- Jim Russo was thanked for his service to the membership as the bookkeeper, webmaster and consultant to the Board.
- Joanne Stroud was recognized for her service as the Architectural Control Committee (ACC) secretary.
- Deb Coulson was recognized for her work on the Neighborhood Committee, planning and organizing the garage sale, and the newsletter.
- Tim Hersch was recognized for helping with the refreshments, setting up the meeting room.
- Thank to the Property Maintenance Committee and the members, including Dave Klink and Terry Schowalter, who help by mowing the greenbelt paths and rights of way.
- Mitch Cheek was thanked for allowing Northmoor to have access to his water for the greenbelt.
- Directors Shawn Rieke and Mike Martin were recognized for green belt upgrade – arranging for pine bark beetle spraying, checking for prairie dogs, winter watering.
- Jerry and Kathy Carson were thanked for greeting members at the door and checking them in.

President Ruof gave a review of the year:

- T-Posts near the greenbelt were removed, thanks to Director Cindy Eldenburg and her husband Dave who brought their tractor to do that, other Board and Property Committee members. Additional random single T-posts were capped by the Board. Thanks to Vicki Hittson and Mike McGinty for bringing that to our attention.
- Budget Committee was formed to review our finances, 7 people volunteered, sent out financial reports ahead of the meeting, hosted a meeting March 1 for homeowners to ask questions, Directors Coulson and Skeldum will talk more about this later.
- Greenbelt mowed for free this year by a farmer that took the hay for payment, were able to lease all of our water this year.
- Prairie dogs were found on both private property and Northmoor property on north side of subdivision. Our neighbor Greg Podtburg had the Northmoor prairie dogs exterminated while he was doing his dairy property.
- Completed a new Records Policy as required by a change in Colorado law, it is posted on our website.
- Anadarko approached us for permission to do seismic testing, after research the Board decided to not allow thumper trucks within the HOA because of possible damage to our infrastructure and possible impact on animals.
- President Ruof thanked the ACC for its hard work. The ACC members will be recognized by the ACC secretary later in the meeting when the report is given.
- September floods impact on the HOA. The bridge over County Road 44 that was washed out was finally repaired on a temporary basis, the Board stayed in contact with Berthoud on this issue.
- There are further repairs to be made to the bridge on WCR 44 including cleanout of the debris and placement of riprap and repair of guardrail. Thanks to Dick Branecki for helping us keep track of this process. There is a Little Thompson River Coalition formed to repair and clean up the river drainage to reduce any possible flooding this spring. The Ish and Supply ditches were both damaged but our assessments are not going up this year as the ditch companies have applied for FEMA money. No damage to Bunyon Lateral or Highland Ditches.
- Lawsuit/collection update was summarized in a letter from our attorney and handed out at the beginning of the meeting, the letter is attached to these minutes.

Reports:

Secretary's report: A draft of the minutes of the 2013 annual meeting held on February 16, 2013 was previously distributed by email and U.S. mail and at the beginning of this meeting. The minutes were reviewed by the membership. The members were asked if they had comments. Mike McGinty was

recognized. He said that at the end of last year's meeting, a member stood up and asked about term limits. President Ruof explained that last year there was a document brought in by a member and put on the tables, but a copy was not given to the Board and it was therefore not put on the agenda. The member worked on a term-limit motion since then, and notified the Board that she would be presenting it this year. However, some time before the meeting, she decided to withdraw the motion for this year. It was moved by Mitch Cheek to accept the minutes, Mike McGinty seconded. The minutes were approved unanimously.

Treasurer's Report: A Budget Committee was organized last year after the annual meeting to work on the budget this last year and there were several member meetings. The Budget Committee was recognized by Director Deb Coulson, who was the chairperson. The members are Leif Bothum, Jacquie Moldenhauer, Dave Klink, Dave Schnitzler, Deb Coulson, Cindy Eldenburg and Bill Skeldum. Two have a strong accounting background. The Budget Committee reviewed the financials, asked questions, held meetings. They addressed some items suggested by the membership at the last annual meeting, made recommendations, and brought a fresh eye to the budget process. An informational meeting was held by the budget committee for interested members on March 1, 2014, at the Johnstown Library. Financial reports were revised and are posted on the web, and were sent out ahead of the annual meeting to members as requested.

The Treasurer's report was presented by Director Coulson, the budget committee has reviewed the report and they concur. There are seven charts to be reviewed. All members received the reports when they came into the meeting and also in the packet that was mailed to them. Our fiscal year is different than the calendar year, it goes from July 1 to June 30 of the following year. See report for details.

- Chart 1, Final Budget Report for fiscal year 2012 – 2013 by category, including special trash assessment. Discussed use of parenthesis – is a take away from the amount, either under-collected or overspent.
- Chart 2, Current Year Budget for the year July 1, 2013 to June 30, 2014 by category. It includes actual results through January 31, 2014 and projected results through June 30, 2014 for both general and trash. Most of our expenses come in the later part of the fiscal year.
- Chart 3, Balance Sheet, details current assets and liabilities. There was discussion regarding various items and the value of our assets, including water and mineral rights. It was discussed that it is very difficult to determine the value of our "long-term" assets like minerals and water.
- Chart 4, Cash Flow Statement as of January 31, 2014. Our attorney is allowing us to pay off his bill gradually as we can, and is not charging interest on the amount due.
- Chart 5 shows the history of our litigation expenses. There was discussion about the collection effort.
- Chart 6 shows increases in expenses by budget category. These include water assessments, postage, board member education, pine bark beetle mitigation, etc.
- Chart 7, Proposed Budget 2014 – 2015. The proposal is for a \$47 increase in annual assessments, which includes a \$27/year increase to the base budget and a temporary increase of \$20/year for a period not to exceed 5 years to pay the attorney bill for litigation. There was discussion of the base budget and temporary assessment. The chart depicts cost per lot for each line of expense. Budget includes cost of a new computer, professional fees, litigation expense recovery, transfer fee. Water assessments have been estimated to be \$500 higher, insurance should remain the same, annual meeting the same. We will be changing phone notification systems, the new system will be \$300, Office staying consistent, neighborhood committee the same, Board education staying the same (required by state law), postage going up, professional fees also include tax preparation (\$400) and normal legal fees of \$1,000. Property maintenance will vary but we know we must mow the greenbelt, we have to spray trees for pine beetles. Taxes are negligible. Trash expense will stay the same. Director Coulson explained that we have both ditch fees and fees to maintain the water. We have been trying to lease our water. There is a sign up sheet for a water committee, an gas and oil committee, and a governing documents committee. Water engineer

has recommended that we keep the water. There was discussion about the difference between a temporary assessment and a regular assessment. There was a discussion regarding payment of the attorney fees, and process if attorney was paid early. There was discussion of the need to have a Reserve Account.

- Mike McGinty asked what was the authority in the governing documents to ask for a special/temporary assessment. President Ruof explained that our attorney advised us that Article IV, Section 3 of the Nothmoor Acres HOA Articles provides the authority: “the maximum annual assessment may be increased above 3% by a vote of two-thirds of members who are voting in person or by proxy, at a meeting duly called for this purpose.”
- Bob Hughes raised issues about the water, there was further discussion about the water and the need to lease all of our water to help recover our expenses. A water committee will do research and report to the Board and membership.
- A motion was made by Kim Gardner and seconded by Roy Rutt to accept the budget. Motion carried by majority voice vote.
- A motion was made to increase the annual regular base assessments from \$103 to \$130 per year. Motion was seconded. Mike McGinty made a motion to amend this motion to add a one-time assessment of \$100 to the proposed \$130 base assessment to pay off the attorney fees in one year, quoting Article IV, Section 4. Amendment to the original motion was seconded. Discussion was held. President Ruof noted that the proposed “special” assessment should actually be called a temporary increase in the annual assessment rather than a special assessment, which puts it under the guidelines of Section 3, not Section 4, of Article IV of our Articles. If the proposed amendment passed, then the total assessment for the 2014-2015 year would be \$350 (\$130 base, \$120 trash, \$100 temporary). Our attorney is not charging interest on the amount owed. The question was called. There was one vote in favor of the amendment, all other votes were opposed. The amendment to the motion was withdrawn by the author, Mike McGinty.
- Motion was previously made and seconded to raise the base annual assessment from \$103 to \$130. 71 votes in favor, 5 opposed. Needed 54 votes in favor of the motion to pass it by two-thirds. Motion passed.
- Motion was made by Mitch Creek and seconded by Roy Rutt to approve an additional temporary assessment of \$20/year, not to exceed 5 years, and that the Board will continue its efforts to collect the court judgments. There was discussion. There were 69 votes in favor, 10 opposed. Needed 54 votes in favor of the motion to pass it by two-thirds. Motion passed.

President Ruof thanked Director Coulson and her committee for all the hard work they did on these issues, and asked for a round of applause for them. She also thanked everyone in attendance today for their support.

Architectural Control Committee Report: President Ruof gave background and explained that the ACC operates under the Board of Directors. To maintain ACC accountability, their decisions must be objective, provide consistency, and be the same for everyone. All structures must be approved. Joanne Stroud, Secretary of the ACC was introduced and gave her report. Secretary Stroud acknowledged and thanked the eight members of the ACC including Barbra Ding, Deb Coulson, Ginny Hersch, Dave Klink, Chuck Krueger, Dave Schnitzler and Art Szallar. Secretary Stroud invited any interested homeowner to attend an ACC meeting or to serve on the ACC, meetings are usually the first Wednesday of the month. ACC Secretary Stroud outlined the procedure for submitting approval. The ACC processed 22 approvals this last year. See annual ACC report in packet for details. There was a question about guidelines and Covenants. There was discussion about what was considered harmonious with existing structures.

Question about the number of horses allowed (two per property unless more than 2 acres per our Covenants) and what Board is doing about violators, Board is aware of violators and is making efforts to resolve the issue. Discussion followed. Request by a member, Bob Hughes, to put some teeth into enforcement with fines. The Board would like for residents to abide by the Covenants; members agreed.

One member expressed that we all pay taxes and it is none of the Board's business what's on our property. The membership expressed disagreement, Roy Rutt expressed that he moved out here because of the covenants, Director Stroud indicated that Northmoor has 16 covenants, asks that everyone abide by them; members agreed. Comment by Paul Tams - When people move in, they know they are subject to covenants and restrictions and that is part of the purchase contract. At closing, have to sign a document that they will abide by the covenants of that neighborhood; members agreed. Comment by Randy Hill - Thanks to the Board for enforcing the covenants, Board is doing what they are supposed to do to protect all of us from lawsuits, we all have a choice whether to live here. Members agreed.

Mike McGinty called for order of the day, request to move agenda along.

Neighborhood Committee Report. Director Coulson recognized the new members in the community: Ben and Sina MacFarlane (Saguaro Court), Brian & Margaret Van Horne (Mesquite Court), Fred and Julie Reichert (Northmoor Drive). All were welcomed.

Director Coulson presented the committee report. The Neighborhood Committee has been in existence for 2 years. Objectives: to make a difference in the community, to bring people together, to give members a chance to get to know their neighbors, and to function as a supportive community. The events included an Easter egg hunt, farmer's market in late August, Fireside gathering in the picnic area in December, Halloween house (Carol Lowe) special treats on Catclaw Court, annual Brighten up Northmoor to recognize outstanding light displays, also garage sale. Introduction of committee members - Audry Bothun, Kim Coulson, Sabrina Schnitzler, Jesse Strack and Terry Showalter.

There was announcement of committee signups – neighborhood, nominations, property, ACC, oil and gas, water analysis, and governing documents.

Election of Directors: There are 9 members that serve on the Board of Directors for Northmoor Acres and every year one third (3) of the positions become available as the terms end. This year Susy Ruof, Cindy Eldenburg and Deb Coulson's terms have ended. All three have agreed to serve again. The nominations committee did not receive any nominations. President Ruof asked if there were any nominations from the floor or if anyone would like to serve on the Board. Asked about board duties, membership doesn't choose the positions, just that they are Directors, the Board decides internally on the positions. Are the three people willing to continue to serve; yes. Sandy Bloom asked to address the members about term limits: the majority of the residents don't want to be on the HOA Board. About term limits, it takes several years to gain knowledge about how things are done, it would be chaos if we had term limits. She is tired of negativity from people who don't want to do the work, we are fortunate to have such bright and hard working people. Please give the committee credit for all the work that they have done, they deserve support and thanks for all the hard work. No nominations from the floor. Motion to close nominations was made, seconded and approved. Since three people ran for 3 seats, they were elected by acclamation. Elected were Susy Ruof, Deb Coulson and Cindy Eldenburg, for three years.

New Business: None

Announcements:

- **Burn Permits.** President Ruof said that the process stays the same and will be restated in the newsletter. Any open burn requires a permit. Individual owners are required to obtain their own burn permit before burning, the HOA can no longer get a permit for the whole subdivision. The permit can be gotten online through Weld County or in person. The homeowner must notify the fire department about the burn. Are valid for only two weeks. Burning can begin 2 hours after sunrise, must be completed 2 hours before sunset. Cannot burn when winds exceed 5 miles per hour. All burns cancelled when "No Burning Declaration" or "Ozone Action Day Alert" declared. Please verify Weld County regulations. Can burning can be done in a barrel without permit? Fire department strongly discourages it.
- **Membership information.** We are asking everyone to please update the contact information, used by the Board to get information to membership, now are using email as much as possible so we

appreciate getting those email addresses, it helps a lot to get information out. We are trying to use our website to get information to homeowners quickly.

- Board was notified that a member was taking pictures of the membership list. President Ruof explained that the only information about members that the Board was allowed to give out without permission of the member was names and physical addresses. The membership objected to the taking of the pictures. The member was requested to delete the photograph, she agreed.

Items from the Membership.

- Comment from Brian Kane. Wrong that mailings are coming out on HOA letterhead from Mike McGinty/Vicki Hittson. He received 30 letters from them in one day and does not want any junk mail, other members agreed. Mike McGinty said he believes that the use of logo by him is appropriate. The membership dissented. President Ruof: Everyone has the right to their own opinions and to be listened to respectfully. Because a number of members complained about this issue, the Board acted to register the logo with the Secretary of State as a trademark and now only the Board of Directors can use the logo. Other members approved.
- Comment from Kathy Diener – What is the snow removal policy? President Ruof: The roads in the subdivision have been dedicated to Weld County, the county is supposed to plow them. A number of years ago there was a major blizzard, the county was overwhelmed, the HOA did hire someone that year to clear the roads in the subdivision. We now have a snow removal policy, but it hasn't been necessary for us to plow since that major storm. Roads within the subdivision are maintained by Weld County. WCR road 11 belongs to Berthoud as does WCR 42 bordering the south side Northmoor HOA and WCR 44 west of WCR 11.
- Comment from Kim Gardner. Glad to know that the logo is now registered.
- Comment from Teresa Kelley. Said she sent out her survey trying to assess neighborhood sentiment on the HOA.
- Comment from Willy Ratliff. Tired of all the dissention about the lawsuit and wants to move on. Membership agreed.
- Comment from Mike McGinty. Withdrew his item concerning term limits.
- Question from membership: Why all the voting cards? President Ruof explained that it was in case we needed to take more written votes.
- Comment from Vicki Hittson. Thanked the Board and the Budget Committee for their hard work on finances, had questions about the water rights, discussed various concerns about the community. President Ruof: the water rights would be investigated by the water committee, also that Board meetings were open to members.

Adjourn. It was moved, seconded and approved to adjourn the meeting. Meeting adjourned at approximately 11:50 am.

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March 21, 2014

Northmoor Homeowner's Association Board of Directors

Re: Enforcement of Covenants

With the issue of the unbudgeted expense for attorney's fees facing the Association, I felt that it was incumbent upon me to briefly address this issue.

The three pit bulls that were kept by the Riveras on Ms. Kelley's property in the Northmoor Subdivision presented a panoply of issues for the Association. Primarily, the issues were: 1. These three dogs were at large numerous times. 2. Weld County Animal Control, the Weld County Sheriff's Department and the Weld County District Attorney made repeated attempts to resolve these issues without success. 3. Northmoor's residents, adults, children and their pets were attacked and menaced repeatedly by these animals. The monetary damages that were incurred from one attack by the pit bulls exceeded \$50,000.

After the Board had been repeatedly made aware of the problems it faced with these vicious, uncontrolled, pit bulls running rampant through the Subdivision, it had three alternatives. It could: 1. Continue to rely on the well-intended but inefficient and ineffective patrolling by Weld County Animal Control and the Sheriff's Department; 2. Initiate litigation pursuant to the Covenants; or 3. Do nothing and let each homeowner fend for themselves.

The Board determined, correctly, I believe, that because the potential for serious injury to the residents of the Subdivision was imminent and apparent, it had no alternative but to enforce the Covenants in a civil action against the Riveras and Ms. Kelley in order to obtain a court-ordered injunction, which would then be enforceable through the courts with contempt proceedings.

If the Board had decided not to take action, and the incidents continued (which the Board was very well aware of involving menacing and physical attacks on the residents and their animals), the Association could have faced very significant civil liabilities. Depending on the magnitude of the injuries, the damages could have certainly been in excess of several hundred thousand dollars. The liability of the Association and the Board may or may not have been covered by the Association's insurance. Instead, the Board correctly determined that it had a duty to protect the health, safety and welfare of Northmoor's residents by enforcing the Covenants.

In spite of several attempts to settle the case, and through court-ordered mediation prior to and during trial, Ms. Kelley and the Riveras would not admit that their animals were menacing the residents of your community. Instead, they countered by saying that various residents and members of the Board were conspiring against them and that their pit bulls were not trespassing on the property of other residents or menacing them in any way. Ms. Kelley and the Riveras also countersued the Homeowners Association for discriminating against them.

Not only did the judge find that the overwhelming weight of the testimony during trial was that the Association was entitled to the injunctive relief it had requested against Ms. Kelley and the Riveras, but it also found that Ms. Kelley and the Riveras' counterclaim was without a factual basis and it was dismissed. In addition, the court found that the Association was entitled to its attorney's fees in excess of \$22,000.

Subsequent to losing almost every issue at this County Court trial, Ms. Kelley and the Riveras continued to assert their positions that they were being discriminated against and that there was no basis for the claims that their pit bulls were frequently off property or vicious. On appeal, the District Court reviewed their claims and it also rejected Ms. Kelley's and the Riveras' claims. Nevertheless, they continued to file frivolous motions and appeals, thereby driving up the Association's legal costs.


Now, in their continued attempt to avoid payment of the Association's judgment for attorney's fees, the Riveras and Ms. Kelley have filed bankruptcy. Ms. Kelley does, however, admit that she has significant equity in her home and also several thousand dollars equity in her vehicle. Several weeks prior to filing her bankruptcy petition, Ms. Kelley bought a new Toyota Tundra pickup for approximately \$40,000. Not only has the trustee in the bankruptcy filed objections to Ms. Kelley's plan, but her mortgage lender and the Association have filed objections to her plan. On two occasions the court itself has rejected Ms. Kelley's plan as deficient on its face and made her file an amended plan. Unfortunately, the only hope that the Association has of recovering the expenses it has incurred in enforcing its Covenants (and forcing Ms. Kelley and the Riveras to control their pit bulls) is to proceed after the equity which Ms. Kelley has in her home and her vehicle.

The issue as to whether or not the Association can seek to recover its attorney's fees and costs is now set for a hearing before the bankruptcy judge on April 1, 2014. At that point we will know whether or not Ms. Kelley's assets are available to satisfy the judgment that the Association has against her.

Finally, Ms. Kelley now contends that the Board should not have spent the money to enforce the Covenants against her and the Riveras, even though the attorney fees were reviewed by the court and found to be very reasonable. In her most current effort to avoid paying the judgment the Homeowners have against her, Ms. Kelley has, as of March 14, 2014, amended her most recent three years of income tax returns to show that the Cactus Drive property, in which she has not been residing, and for which she has been receiving rent, was "not a rental property" (in order to claim a homestead exemption).

This Board has consistently made the correct decisions to enforce the Covenants and thereby ensure the health, safety and welfare of the residents of Northmoor. Unfortunately, at every step of the way, the Riveras and Ms. Kelley have refused to comply with Colorado State Statutes prohibiting people from having dangerous dogs, the Northmoor Association Covenants, and the orders of every court that Ms. Kelley has been in front of. The Board and the residents who testified at the trial are to be commended for standing up to and opposing the actions of these non-compliant residents that both raised your legal fees and endangered your community.

Respectfully,



R. B. Fickel