

FALLS CREEK RANCH ASSOCIATION, INC.

ANNUAL MEETING MINUTES

JULY 9, 2011

Pursuant to Notice duly provided to the membership, Association President Mary Ann Bryant called the Annual Meeting of the Falls Creek Ranch Association (FCRA) to order at 9:05 a.m., July 9, 2011 at the FCRA picnic grounds. President Bryant announced a quorum was present with a total of 88 lot owners represented at the annual meeting, 46 in person and 42 by proxy. A total of 90 residents were in attendance at the meeting and picnic. Board members present were President Mary Ann Bryant, Vice President Jim Wallace, Treasurer David Hardy, Asst. Treasurer/At Large Kelly Lupton and Secretary Doralee Matthews.

President Mary Ann Bryant welcomed the residents and thanked them for attending. She reviewed many of the accomplishments over the past year and thanked all of those who have been involved in these projects. Some of these accomplishments included:

- the update and renewal of Ray Smith's job descriptions and employment contract
 - renewal of the 20 year lease for the FCR fire station with Durango Fire Dept.
 - the collection, organization and filing of FCR records in the Record Shed
 - acquiring two AEDs
 - the CPR and AED training of thirty residents
 - construction of the new sand shed
 - the CWPP Plan (draft)
 - being awarded two grants related to CWPP projects
 - the repair of FCR Caretaker's home bathroom and residing of house
 - enlistment a new insurance agent, reviewed policy and lowered premiums
 - FCR registration with the state of Colorado
- (HOAs are now required by new state law to do this annually)
- updated By-Laws and Covenants complying with Colorado state law (C.C.I.O.A.)
 - new water meter monthly reading technology
 - Firewise Education Day
 - updated Committee Rules and Regulations

- FCR website information improvements and additions

1. INTRODUCTIONS AND AGENDA APPROVAL

President Bryant introduced new members Don and Renee Felix welcoming them to FCR. She announced new lot owners: Mike and Kathy Murphy, Jim and Jill Badalati, Terry and Tracy Owens and Mark and Tish Bloom.

By motion duly made and seconded, the Agenda distributed to the membership with the meeting Notice was unanimously approved as submitted.

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2. APPROVAL OF MINUTES

By motion duly made and seconded, the Minutes of the July 10, 2010 FCRA Annual Meeting distributed with the Notice of this meeting were unanimously approved as submitted.

3. COMMITTEE REPORTS

Utilities Committee

Eb Redford, Co-chair, recognized and thanked Don Southworth (Co-chair) for his work with the monitoring of utilities at Falls Creek . He compared the operational systems needed to run FCR to that of a small city. He recognized Barry Bryant as a co-project manager for the new disinfection system and announced that Gil Davidson has joined the committee. Eb thanked the “Mighty Monthly Meter Readers” and Jane Schultz who inputs the meter data into computerized reports. Eb made a plea to members to continue to conserve water. This month 14 lots used over 400 gallons a day – the highest being a daily average usage of 1500 gallons of water. The ranch standard is 100 gallons per day per occupant. He recognized that the majority of residents do an excellent job of domestic water conservation. He recognized Ray Smith for his job collecting water samples for Green Labs and reporting on conditions to the ranch. Redford also updated the membership on the progress of the disinfection system project and involvement with Russell Engineering. The start of this project will be next spring and will cost around \$80,000. This will be paid for by promissory notes. He then introduced David Hardy, BOD Treasurer, to address the membership regarding the promissory notes.

Hardy referred to a letter that had been recently sent out to the membership from the BOD explaining the disinfection project and inviting residents to participate in the promissory note investments. He encouraged interested parties to contact him for more information if they would like to invest in these notes – earning the U.S. Treasury note rate + 1 ½%.

Mary Ann followed up Redford’s report encouraging FCR residents to view the latest domestic water usage report and check their personal residential water usage with Utility Committee members present at the meeting. She reminded them that a “home

maintenance check” with a Utilities Chairman is available to residents if they need help identifying possible problems.

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Dam Emergency Plan that would be hooked into the emergency 911 telephone system to notify neighboring residents if there was a potential flooding problem due to a breach in the dam. FCR’s dam is categorized as a “Class 1” based on the consequences should there be a dam breach.

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Barry Bryant, Road Chairman, recognized the committee members: Bob Strachan, Barney Anderson and Warren Kerzon. He announced that John Ritchey will be joining the committee. Bryant thanked CPC Chairman, Jim McCarthy, for his efforts on the clearing of roadside brush for greater visibility and safety as well as Marge Rebovich and the Beautification Committee for their work on painting the road signs. He recognized Kelly Lupton and Bill Rebovich for their work on FCR’s new sand shed.

Bryant also reported on the upcoming road improvement project and the \$5,000 Grant from the state. Contractors will start work on FCR roads on July 18, 2011. He talked about the past winter and its effect on roads. He reminded residents to drive at the speed limits posted – for safety reasons as well as road maintenance. Bryant explained that speeding and excessive braking damages our roads. A future project, FCR’s Wildfire Protection Plan, will include road improvements, as well as turn-arounds and pull-outs enhancing fire vehicle access to homes and fire hydrants as well as increasing residential vehicle safety when facing oncoming traffic. The National Forest Service and the Durango Fire Dept. were instrumental in identifying these areas where improvement is needed. Bryant reported that FCR’s aging equipment needs continual maintenance.

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Jim McCarthy, CPC Chairman, reported that there are three on-going projects at this time. He recognized residents Bill Bales and Bob Strachan for their work on the thistle spraying in the meadows and thanked Doug Parmentier for heading up the volunteer meadow mowing schedule for the ranch. A question from the membership was raised about the fire exit at High Meadows. (FCR has the combinations needed to open gates into High Meadow and an agreement that residents can drive through the property in an emergency.) However, Byard Peake, former Firewise Ambassador, announced that it is not a designated fire exit and that the road condition of this exit is poor and not easily negotiated with a vehicle. Recommended fire exits are: Mason Cabin and Falls Creek Main.

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Nancy Wallace, Co-Chairman, addressed the progress of the matured entrance garden. This garden, along with the barrels and planters, are watered by a drip system built by Bill Rebovich. The Demonstration Xeric Garden does not require a watering system. She reported that the historical FCR road signs have been refurbished and repainted by members of the committee and other volunteers. She recognized Laura Bales and Jill

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project will be the creation of a xeric rock garden to be developed near the entrance by the fire station.

Nancy introduced Marge Rebovich, Co-Chairman, and reminded the members that she and Marge Rebovich are available to residents to advise on landscaping issues at Falls Creek. Marge addressed the recently suggested idea of a FCR community vegetable garden. She provided an informational handout and recommended a community resource, Mary Clark, for consultation. Marge suggested that an exploratory group be established by interested parties to research the project's possibilities.

4. LIAISON AND CARETAKER REPORT

Byard Peake, FCR Liaison, thanked Ray Smith, Ranch Caretaker, for his work and expertise at FCR over the last eleven years. He also recognized him for his help with the various ranch committees and projects in the past year. Peake reminded members to contact him as Liaison if they would like Smith's assistance in personal ranch projects. Mary Ann Bryant recognized Ray, along with his wife Nancy, and presented flowers and a card of appreciation including a bonus check for \$1,000.00 to them.

5. WATER LITIGATION REPORT

Jim McCarthy (Deer Trail) serving as liaison to the FCR water attorneys for BOD, provided a historical review on the water rights dispute and updated the membership on the status of the water litigation.

In summary:

- FCRA water sources are from our wells and aquifers
- Ed Zink holds the senior water right on Falls Creek. He has first call on the water in the creek including the reservoir during irrigation seasons (spring and fall)
- Zink has tried to expand this right to a wider range of uses including water during the NON-irrigation season
- In 2004, Zink filed an objection to FCRA well #4 claiming its aquifer is tributary to Falls Creek thus giving him a legal interest in and control over FCRA domestic water supply.
- Colorado State Engineer ruled the FCRA wells are tributary to the Animas River.
- Citing new information, Zink was able to re-open that decision. We are awaiting a second decision.
- Another issue involves the reservoir level and whether Zink can place a call without limit on the reservoir during the NON-irrigation/refill season, thus impairing refilling the reservoir during the NON-irrigation season.

- FCRA's position: ALL wells are tributary to the Animas River and Zink has no right or control over our domestic water. Any draw downs should be subject to reasonable limits to allow for refill.
- Zink's water right is limited by lawful historic uses.

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- Developments since last year: After considerable delay, Zink rejected the settlement proposal mentioned last year at the annual meeting and moved the "goal posts" by raising new issues and claims.
- After consultation with our attorney, the BOD decided the only way to bring this matter to a conclusion was to set the various claims and cases for trial.
- The court date is set for January 2012.
- While FCRA remains open to settlement discussions, any settlement arrangement would need to be finalized substantially prior to the January trial date. If not, the BOD intends to try these claims and cases to their conclusion.

Jim McCarthy addressed questions from the residents. President Bryant and the residents then thanked Jim McCarthy for all his assistance with the important issue.

6. TREASURERS REPORT

David Hardy discussed the 2011-2012 Budget. He mentioned the effects that litigation has had on our budgetary plan. \$60,000 has been budgeted for litigation and legal consultation for the upcoming year. He explained that a court judgment is the only way to bring closure and ending future legal expenses for FCR regarding water rights.

Hardy reported that it had been a good year from a financial standpoint. Assessments will be raised from \$2560.00 to \$2770.00. Hardy reminded the membership that over the past two years, \$310.00 had been dropped from membership assessments. The BOD made the decision in 2009 to lower assessments thus helping members deal with the difficulties brought about by the weakened U.S. economy.

At the conclusion of his report, a motion was duly made and seconded to approve and accept the FCR Budget 2011-2012. The motion passed unanimously. Hardy addressed questions from the membership.

7. ELECTION OF NEW OFFICERS AND RECOGNITION OF OUTGOING BOARD MEMBERS

On behalf of the FCR membership, Mary Ann Bryant recognized and thanked outgoing board members, David Hardy as Treasurer and Doralee Matthews serving as Secretary.

They were presented with a card of appreciation and a gift. David and Doralee thanked the membership and the Board of Directors for their support during the past three years. This presented the Board of Directors with two openings that need to be filled. Mary Ann called for nominations from the floor. Carol Deterding spoke of Becca Steinbach's qualifications and nominated her for the BOD. Nancy Peake nominated David Rohdy and addressed his qualifications as well.

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No other nominations were made from the floor. Accordingly, by motion duly made and seconded, a motion was made to close the nominations. By motion duly made and seconded, the membership then unanimously elected Becca Steinbach and David Rohdy to a three (3) year term.

8. NEW BUSINESS

Mary Ann addressed the membership regarding the C.C.I.O.A. (Colorado Common Interest Ownership Act) requirements for Colorado Homeowner Associations (H.O.A.). This past year, the BOD, along with the legal counsel of Christina Landeryou, has been working to update the language of FCR Articles of Incorporation, Bylaws and Covenants to be in compliance with state regulation.

The rewriting of these governing documents was included in the Annual Meeting Packets for distribution so that members could familiarize themselves with the new language in order to prepare for a vote.

FCR Articles of Incorporation presently requires an affirmative vote of three-fourths of the membership to change a covenant. State law requires only a 67% affirmative vote

A motion was duly made and seconded to amend Article 9th and adopt the new language as amended in compliance with state law. The vote was unanimous.

Article 9th was deleted in its entirety and replaced with:

These Articles of Incorporation may be amended upon a two-thirds (2/3rd) vote of the lot owners entitled to vote under Article 5th hereof in favor of such amendment.

Mary Ann presented **Article 5th** relating to membership and association description and moved for adoption. Jim McCarthy (Deer Trail) made a motion that spoke to the need to amend the originally proposed language distributed to the membership, clarifying the meaning of the third sentence in Article 5th to read that "each lot was only entitled to one vote".

The motion was seconded and unanimously agreed upon to revise the proposed language of Article 5th.

A motion was duly made and seconded to accept Article 5th as amended, adopting the updated language in compliance with state law. The vote was unanimous.

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Article 5th was deleted in its entirety and replaced with:

The Association shall consist of a maximum of one hundred (100) lots. Any person(s) trust, entity or partnership who holds title to a lot in Falls Creek Ranch shall be a member of the Association. Each lot, unless otherwise provided in the Covenants (referred to elsewhere in the By-Laws as the “Protective Covenants”), shall be entitled to one vote, regardless of the number of owners who hold title to a lot in the Association. A membership shall entitle members to all rights and privileges in the Association subject to such limitations as may be set forth in the By-Laws. Each membership shall be assessable in accordance with the By-Laws of the Association.

Mary Ann explained that the language changes in the **FCR By-Laws - Article II** were simply to add aspects of administrative operations required by State law or to clarify current language. There were no other changes to the original intent or structure of FCR governance.

A motion was duly made and seconded to modify the proposed amendment to clarify voting language on By-Law Article II, paragraph 2. The vote was unanimous.

A motion was duly made and seconded to accept By-Law Article II, Paragraph 2 as amended in compliance with state law. The vote was unanimous.

By-Law Article II, Paragraph 2 was deleted in its entirety and replaced with:

2. Class and Voting: There shall be one class of membership only. Each lot, unless otherwise provided in the Covenants (referred to elsewhere in the By-Laws as the “Protective Covenants), shall be entitled to one vote, regardless of the number of owners who hold title to a lot in the Association.

Mary Ann then reviewed the changes to be made in **FCR Covenants:**

4 – Definition of property; updated plat language

#10 – Membership description moved to Bylaws

#29 – Special assessment language clarified

#30 – Subordination of assessment lien language clarified

- #31 – Enforcement of covenants language updated**
- #32 – Amendment of covenants**
- #34 – Term of covenants to be perpetual**
- #37 – New covenant recognizing CCIOA**

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A motion was duly made and seconded to amend aforementioned **FCR Covenants** and adopt the updated language as submitted in compliance with state law. The vote was unanimous.

This information will be recorded with the county. The BOD will continue working to revise all of our current bylaws to be in compliance with CCIOA administrative requirements. When the remaining bylaws are finalized, they will be distributed to the membership by email and will appear on the FCR website. There are nine new policies that need to be created or updated then added to the governing documents according to Colorado State Law.

9. OTHER NEW BUSINESS

The arch at the entrance of Falls Creek Ranch has been removed for safety reasons. President Bryant asked the membership for feedback regarding its replacement. After discussion, the membership agreed to replace the arch with some sort of entrance design.

A motion was duly made, seconded and unanimously approved to create a work group to research this project and present ideas to FCR membership. Mary Ann asked for volunteers to join this group. The following residents volunteered: Carl Deterding, Barry Bryant, Don Southworth, Jim McCarthy, Pat Campbell, Jill Lupton, Eb Redford, Marge Rebovich, Barney Anderson, Susan Ruggera and Nancy Wallace.

Doug Parmentier, resident and Emergency Text Messaging System organizer for FCR, reminded the residents to submit their phone numbers to him if they would like to participate in this notification system.

Mary Ann explained that Denny Ehlers, resident and attorney, is working pro-bono to help resolve the FCR plat and deed issue. His office has prepared corrected deeds and two notaries have been hired to meet with involved residents at the end of the annual meeting. These new deeds will be recorded with the county.

Tom Jones, resident, asked the BOD to pursue the elimination of weekly vacation rentals on the ranch. A motion was duly made, seconded and approved by a majority membership vote. Jim McCarthy, Deer Trail, addressed the question of enforcement. The BOD will discuss and research this topic.

10. NEXT ANNUAL MEETING

The next FCR Annual Meeting will be held on July 14, 2012 at 9:00 a.m. at the Falls Creek

Ranch Picnic Grounds.

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Mary Ann thanked all of the volunteers and the BOD for their hard work and many accomplishments over the past year. She also thanked the residents for attending the 2011 FCR Annual Meeting.

11. ADJOURNMENT

By motion duly made, seconded and unanimously approved, the Annual meeting of the Falls Creek Ranch Association was adjourned at 11:37 a.m.

This document constitutes a true and correct copy of the Minutes of the Annual Meeting of the Falls Creek Ranch Association, Inc.

Respectfully Submitted,

Doralee Matthews
Secretary
July 9, 2011

FALLS CREEK RANCH ASSOCIATION, INC.

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6. TREASURERS REPORT

David Hardy discussed the 2011-2012 Budget. He mentioned the effects that litigation has had on our budgetary plan. \$60,000 has been budgeted for litigation and legal consultation for the upcoming year. He explained that a court judgment is the only way to bring closure and ending future legal expenses for FCR regarding water rights.

Hardy reported that it had been a good year from a financial standpoint. Assessments will be raised from \$2560.00 to \$2770.00. Hardy reminded the membership that over the past two years, \$310.00 had been dropped from membership assessments. The BOD made the decision in 2009 to lower assessments thus helping members deal with the difficulties brought about by the weakened U.S. economy.

At the conclusion of his report, a motion was duly made and seconded to approve and accept the FCR Budget 2011-2012. The motion passed unanimously. Hardy addressed questions from the membership.

7. ELECTION OF NEW OFFICERS AND RECOGNITION OF OUTGOING BOARD MEMBERS

On behalf of the FCR membership, Mary Ann Bryant recognized and thanked outgoing board members, David Hardy as Treasurer and Doralee Matthews serving as Secretary. They were presented with a card of appreciation and a gift. David and Doralee thanked the membership and the Board of Directors for their support during the past three years. This presented the Board of Directors with two openings that need to be filled. Mary Ann called for nominations from the floor. Carol Deterding spoke of Becca Steinbach's qualifications and nominated her for the BOD. Nancy Peake nominated David Rohdy and addressed his qualifications as well.

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No other nominations were made from the floor. Accordingly, by motion duly made and seconded, a motion was made to close the nominations. By motion duly made and

seconded, the membership then unanimously elected Becca Steinbach and David Rohdy to a three (3) year term.

8. NEW BUSINESS

Mary Ann addressed the membership regarding the C.C.I.O.A. (Colorado Common Interest Ownership Act) requirements for Colorado Homeowner Associations (H.O.A.). This past year, the BOD, along with the legal counsel of Christina Landeryou, has been working to update the language of FCR Articles of Incorporation, Bylaws and Covenants to be in compliance with state regulation.

The rewriting of these governing documents was included in the Annual Meeting Packets for distribution so that members could familiarize themselves with the new language in order to prepare for a vote.

FCR Articles of Incorporation presently requires an affirmative vote of three-fourths of the membership to change a covenant. State law requires only a 67% affirmative vote

A motion was duly made and seconded to amend Article 9th and adopt the new language as amended in compliance with state law. The vote was unanimous.

Article 9th was deleted in its entirety and replaced with:

These Articles of Incorporation may be amended upon a two-thirds (2/3rd) vote of the lot owners entitled to vote under Article 5th hereof in favor of such amendment.

Mary Ann presented **Article 5th** relating to membership and association description and moved for adoption. Jim McCarthy (Deer Trail) made a motion that spoke to the need to amend the originally proposed language distributed to the membership, clarifying the meaning of the third sentence in Article 5th to read that “each lot was only entitled to one vote”.

The motion was seconded and unanimously agreed upon to revise the proposed language of Article 5th.

A motion was duly made and seconded to accept Article 5th as amended, adopting the updated language in compliance with state law. The vote was unanimous.

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Article 5th was deleted in its entirety and replaced with:

The Association shall consist of a maximum of one hundred (100) lots. Any person(s) trust, entity or partnership who holds title to a lot in Falls Creek Ranch shall be a member of the Association. Each lot, unless otherwise provided in the Covenants (referred to elsewhere in the By-Laws as the “Protective Covenants”), shall be entitled to one vote, regardless of the number of owners who hold title to a lot in the Association. A membership shall entitle members to all rights and privileges in the Association subject to such limitations as may be set forth in the By-Laws. Each membership shall be assessable in accordance with the By-Laws of the Association.

Mary Ann explained that the language changes in the **FCR By-Laws - Article II** were simply to add aspects of administrative operations required by State law or to clarify current language. There were no other changes to the original intent or structure of FCR governance.

A motion was duly made and seconded to modify the proposed amendment to clarify voting language on By-Law Article II, paragraph 2. The vote was unanimous.

A motion was duly made and seconded to accept By-Law Article II, Paragraph 2 as amended in compliance with state law. The vote was unanimous.

By-Law Article II, Paragraph 2 was deleted in its entirety and replaced with:

2. Class and Voting: There shall be one class of membership only. Each lot, unless otherwise provided in the Covenants (referred to elsewhere in the By-Laws as the “Protective Covenants), shall be entitled to one vote, regardless of the number of owners who hold title to a lot in the Association.

Mary Ann then reviewed the changes to be made in **FCR Covenants**:

- # 4 – Definition of property; updated plat language**
- #10 – Membership description moved to Bylaws**
- #29 – Special assessment language clarified**
- #30 – Subordination of assessment lien language clarified**
- #31 – Enforcement of covenants language updated**
- #32 – Amendment of covenants**
- #34 – Term of covenants to be perpetual**
- #37 – New covenant recognizing CCIOA**

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A motion was duly made and seconded to amend aforementioned **FCR Covenants** and adopt the updated language as submitted in compliance with state law. The vote was unanimous.

This information will be recorded with the county. The BOD will continue working to revise all of our current bylaws to be in compliance with CCIOA administrative requirements. When the remaining bylaws are finalized, they will be distributed to the membership by email and will appear on the FCR website. There are nine new policies that need to be created or updated then added to the governing documents according to Colorado State Law.

9. OTHER NEW BUSINESS

The arch at the entrance of Falls Creek Ranch has been removed for safety reasons. President Bryant asked the membership for feedback regarding its replacement. After discussion, the membership agreed to replace the arch with some sort of entrance design.

A motion was duly made, seconded and unanimously approved to create a work group to research this project and present ideas to FCR membership. Mary Ann asked for volunteers to join this group. The following residents volunteered: Carl Deterding, Barry Bryant, Don Southworth, Jim McCarthy, Pat Campbell, Jill Lupton, Eb Redford, Marge Rebovich, Barney Anderson, Susan Ruggera and Nancy Wallace.

Doug Parmentier, resident and Emergency Text Messaging System organizer for FCR, reminded the residents to submit their phone numbers to him if they would like to participate in this notification system.

Mary Ann explained that Denny Ehlers, resident and attorney, is working pro-bono to help resolve the FCR plat and deed issue. His office has prepared corrected deeds and two notaries have been hired to meet with involved residents at the end of the annual meeting. These new deeds will be recorded with the county.

Tom Jones, resident, asked the BOD to pursue the elimination of weekly vacation rentals on the ranch. A motion was duly made, seconded and approved by a majority membership vote. Jim McCarthy, Deer Trail, addressed the question of enforcement. The BOD will discuss and research this topic.

10. NEXT ANNUAL MEETING

The next FCR Annual Meeting will be held on July 14, 2012 at 9:00 a.m. at the Falls Creek Ranch Picnic Grounds.

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Mary Ann thanked all of the volunteers and the BOD for their hard work and many accomplishments over the past year. She also thanked the residents for attending the 2011 FCR Annual Meeting.

11. ADJOURNMENT

By motion duly made, seconded and unanimously approved, the Annual meeting of the

Falls Creek Ranch Association was adjourned at 11:37 a.m.

This document constitutes a true and correct copy of the Minutes of the Annual Meeting of the Falls Creek Ranch Association, Inc.

Respectfully Submitted,

Doralee Matthews
Secretary
July 9, 2011