

Minutes for the Annual Business Meeting of the Shadow Run Home Owners Association

November 21, 2013 6:30 p.m.

The Golf Club at Redlands Mesa
2325 West Ridges Boulevard

Board Members present: Amy Zuendel, Michael Bozeman, Doug Gromann

Owners present: 360-Amy Zuendel, 356- Ann McFarland, 347-Doug and Marg Gromann,337-Kendra and Chuck McDaniel, 327-John Starr, 352-Lee Krauth, 364-Michael Bozeman, 335-Shelly Tran, 329 Tracy Hansen, 336-Andy and Liz Nelson. There was one proxy vote assigned to the Board from 332-Lisa Luong.

Others present: David Caldwell and Lesly Adams with Heritage Property Management

Call to Order

The fifth Annual Meeting of the Shadow Run Home Owners Association was called to order at 6:30 p.m. Owners present were reminded to sign in.

Welcome and Introductions

President Amy Zuendel thanked everyone for attending and introduced David Caldwell and Lesly Adams from Heritage Property Management and the HOA's General Counsel, Attorney Andrew Teske from the law firm Hoskin, Farina and Kampf.

Presentation on the Responsibilities of the HOA

Attorney Andrew Teske then discussed Section 5.1 of the Covenant, Conditions and Restrictions (CCR's). He described in detail the platting of the HOA property. Every owner's plot consists of the footprint of his townhouse. All the other surrounding areas are HOA property and are the responsibility of the HOA. The maintenance and repair of the irrigation system running through the common area is also the responsibility of the HOA.

Reading of the Rules and Establishment of a quorum

President Zuendel stated that a quorum consists of 20% of the owner. With 24 units present in the HOA this means we must have at least 5 owners present. 10 units and the proxy for an 11th unit were present, so the quorum requirement was met.

Reading of the Minutes

Secretary Gromann read the minutes of the last annual business meeting on Oct 25, 2012. President Zuendel asked if there were any edits or corrections to the minutes and hearing none, the minutes were approved.

Reports of Officers, Board and Committees

Financial Report – Vice President Michael Bozeman was introduced. He had been appointed to the Board as Vice President in Oct 2013 after Chris West, the previous Vice President, had sold his unit. Vice President Bozeman reviewed the details of the Oct 2013 Financial Report. Income in October 2013 was \$3280, expenses were \$3996. He then reviewed the expenditures for the 1st 10 months of the year item by item for each expense category. At the end of October, there was \$38951 in checking and \$40060 in the money market reserve account.

In answer to a question, Secretary Gromann mentioned that assessments for Shadow Run Townhomes HOA would always be higher than many other HOA's because of the requirements of our covenant. He stated that per section 5.2 of the CCR's, the HOA is financially responsible for maintenance and repairs of the roofs, gutters, stucco, driveway, sidewalks, etc. and that Cliff View Drive is owned by the HOA, not the City of GJ. A reserve study prepared by in 2009 stated that the HOA has a fiduciary responsibility to collect an assessment of \$75 per unit per month and increase it by 3% a year to result in a reserve fund of about \$500,000 to \$700,000 over 30 years that would cover the costs of roof replacement, road maintenance, gutter and concrete repairs, etc. and that this is the reason the Board began imposing this fee in 2011. Otherwise huge assessment would need to be collected for unexpected expenses and major expected expenses such as roof replacement and street repairs. The goal is to be able to set aside \$20,000 - \$25,000 per year above actual expenses to continue to grow the fund for future expenses.

Landscaping and Architectural Committee Report – President Zuendel stated that she had worked with a landscaper from Meadowlark Gardens to improve the appearance of the common areas. Many weeds had been removed and a variety of new plants were planted to add more color and to fill in some of the bare spots. However, overall, she is not completely satisfied with what was accomplished and will continue to work on these issues next year. There had been some watering issues, with some areas with few plants receiving excessive amounts of irrigation water. Her written report that was included in the meeting handouts detailed accomplishments for this year and area that will need improvement next year. She is hopeful that next year additional landscaping improvements can be accomplished while remaining within the limits of our budget.

Ground and Maintenance Committee Report – Secretary Gromann began by reporting on the sprinkler irrigation leak that caused flooding in the basements of units 327 and 329 on Oct 12, 2013. The main irrigation line beneath 329's drive leaked and was the cause of the damage. The irrigation water was turned off that day when David Caldwell and Humberto responded to Tracey Hansen's emergency call, but on Oct 14 Humberto with Eagle Landscaping turned the water back on without informing a Board Member or David Caldwell and this resulted in additional flooding. The Board is considering various options to recover a portion of the Rapid Response costs from Eagle Landscaping or their insurance company.

On Oct 18, the source of the flooding was traced to the irrigation line leak. Both homeowners and the HOA filed insurance claims, but these were denied as exclusions from all of the policies. The irrigation line at the source of the leak had not been primed or glued properly. However, since the developer,

Harvest Homes LLC went bankrupt, litigating the issue with them was not an option. Based on incomplete Harvest Homes, LLC records the Board received from CMR after they purchased the property in 2010, the Board was unable to find any records identifying the contractor that installed the irrigation system, so litigating against the irrigation system installer was not an option either.

The irrigation line was repaired and the system was tested by American Leak Detection before the water was shut off for the season. The system held pressure even better than the contractor expected, so at this time it appears that there are no additional leaks. After a discussion, the Board agreed to have the system pressure checked each season in an effort to detect significant leaks as early as possible in the future.

Following the receipt of the insurance denial letters, the Board met with attorney Andrew Teske to discuss the issues regarding liability for the water damage to the basements of 327 and 329. The Board learned that the incident was a "trespass of water" and since it originated from the HOA's irrigation system, the HOA is fully financially responsible for the damages that resulted once the water crossed over the owners' property lines and is required to cover all the costs necessary to make each owner "whole" again.

Secretary Gromann stated that at this time it appears that the total damages, including the Rapid Response bill, the cost of restoring the basements and legal costs will be in the range of \$40,000 - \$50,000. This money will be paid out of the HOA's funds. To replenish the reserve fund, the Board has imposed a special assessment of \$21 per unit per month that will amount to an extra \$6000 per year to be collected from all 24 units until the Reserve Fund is re-funded by the amount of the flood related damages. In order to meet deadlines for mailing the 2014 budget to each homeowner, this special assessment was set at this level before any of the costs were known (no invoice had been received from Rapid Response, no estimates had been received from the homeowners, and no legal bills had been received) and at this rate it will take approximately 7 or 8 years to fully replenish the drop in the reserve fund. It is possible that in the future this Special Assessment will need to be increased in order to re-fund the Reserve Fund in less than 7 or 8 years.

Marg Gromann stated that everyone in the HOA, including renters, should be instructed in how to turn off the irrigation water in the event of another leak. Everyone present agreed, and President Zuendel said that next irrigation season residents could ask a Board Member to be shown how to turn off the main valve. Written instructions will also be supplied in the Spring 2014 newsletter.

Secretary Gromann also mentioned that during the year, a damaged garage door panel was replaced and repainted, concrete repair work was done in front of unit 337, gutters with a history of leaking during the winter were adjusted and repaired by Rocky Mountain Gutters, and the drainage area between units 329 and 331 was improved. There are plans to further improve drainage by adding gutter and sump pump extensions to units needing them, and this will be done as the budget and time constraints permit.

Report from the President – President Zuendel reported that the HOA is maturing now that the development is 7 years old. Although the flooding created a large financial setback, the Board is functioning well as a team and has set multiple priorities, both large and small, that will be completed within our time and financial constraints.

Nominations and Elections

President Zuendel's 3-year term ends this year, Vice-President Bozeman's 3-year term ends in 2014 and Secretary Gromann's 3-year term ends in 2015. According to the By-Laws, the Board may have up to 5 officers, but Secretary Gromann recommended no more than 4 since the By-Laws were written with the assumption that there would be 32 homeowners in the HOA rather than the current 24.

President Zuendel opened the floor to nominations. Kendra McDaniel nominated Rob Tran and this was seconded. Doug Gromann nominated Amy Zuendel and this was seconded. There were no further nominations. President Zuendel called for voice votes for both nominees, and Rob Tran was elected and Amy Zuendel was re-elected by unanimous votes. At the next meeting, the Board will choose the officer positions for each member for 2014.

Unfinished Business

Review of Compliance Requests and Requisition Requests - President Zuendel briefly reviewed the lists distributed in the handouts of Compliance Requests and Requisition Requests that she had developed with Heritage Property Management. The Requisition Requests detailed a number of projects remain to be completed and the Board will continue to process and prioritize them for completion. The Compliance Requests detailed a number of rule violations that the Board has dealt with or will be dealing with in the near future.

Excavation hole at 366-368 vacant lot - Vice-President Bozeman then opened a discussion on the excavation hole next to his unit (362). He remains frustrated that the hole remains unfinished and unfilled and presents a clear danger to children and could eventually lead to damage to the street and his foundation. He has tried contacting the attorneys for Cliff View, LLC, but they do not return his calls. Secretary Gromann mentioned that in previous years the Board had contacted the city code enforcer, the county building department and Attorney Andrew Teske about the issue, but no clear remedies were available. Andrew Teske had previously recommended that the best course to follow would be a private lawsuit against the owner of the lot filed by the owner who is closest to the hole.

Landscape Maintenance and Eagle Landscaping - President Zuendel then discussed some of the frustrations in working with Eagle Landscaping on various landscaping projects during 2013. Many of the planned projects seemed to have been forgotten by Eagle Landscaping and were never completed. President Zuendel stated that next year, she would like to limit Eagle Landscaping's scope of work to simply lawn care and sprinkler system maintenance and repair, and would like to hire another contractor for landscaping projects and closer attention to care of our trees, bushes and other plants.

New Business

Ratification of the 2014 Budget – President Zuendel briefly reviewed the details of the 2014 budget. She noted the 25% rate increase for our HOA insurance policy with American Family Insurance and re-iterated the reason for the Special Assessment that will replenish the Reserve Fund following the disbursement of funds for flood related property damages. There was no motion to reject the budget, so the budget was officially ratified. Beginning in Jan 2014, the new assessment will be \$194 per unit per month.

Presentation of the Claims Policy, Claims Form and Settlement Agreements

President Zuendel discussed the new policy that had been drafted by Andrew Teske as a result of the flooding damage to units 327 and 329. This is the policy that the Board recently approved and that will be used to finalize the financial settlement between the HOA and the owners of the affected units.

Review of Future Legal Services

President Zuendel mentioned that the Board would continue to work with Andrew Teske to finalize the financial settlement that will be reached for the flood related.

Various owners began a discussion on if there was a way to begin collecting assessments from the owner of the 8 vacant lots. The Board wasn't sure if this was possible, but is willing to discuss this issue with Andrew Teske. If it is possible, it would require proposing an amendment to the CCR's and passing it by obtaining a super-majority of votes from the owners. The Board agreed to pursue this idea and plans to discuss our options, if any, regarding this strategy with Andrew Teske next year.

Adjournment

The meeting was adjourned at 7:50pm. Next year's Annual Business Meeting will be scheduled in November of 2014.

Respectfully Submitted,

Doug Gromann, Board Secretary