

# **KEENE RANCH HOMEOWNERS ASSOCIATION BOARD OF DIRECTORS MEETING**

August 19, 2008  
4:30 p.m. - 6:30 p.m.

Philip Miller Library  
Staff Conference Room

## **I. MEETING CALLED TO ORDER**

The meeting was called to order at 4:35 p.m., by President, Bob Rafferty.

*Board Members Present:*

Bob Rafferty - President

Dan Branda - Vice-President

Absent - Mark Albright – Treasurer – Directed Proxy to Bob Rafferty Submitted

Absent - David Boyle – Member at Large – Directed Proxy to Dan Branda Submitted

Representing Management, Kim Maguire with Premier Property Management, LLC.  
There were three homeowners present.

## **II. HOMEOWNERS FORUM**

A homeowner was present to place on the record that he was disappointed that he was not directly notified of an outbuilding construction, design and approval. At this time the owner affected does have concerns that the outbuilding will block the view of his corridor from his back deck. The owner feels that the Association and ARC was misled on the submitted drawings. The Board will contact John Brennan with the ARC to discuss and review the approved plans.

## **III. HEARINGS**

There were no scheduled hearings.

## **IV. APPROVAL OF MINUTES**

The minutes of the meeting held on July 15, 2008, were approved by electronic mail shortly after the meeting. This approval was ratified at this monthly meeting by a motion made by Mr. Rafferty, and seconded by Mr. Branda. Motion passed unanimously with directed proxies.

## **V. MANAGERS REPORT**

The July financials were presented by Ms. Maguire. There were no questions regarding the financial statements. Mr. Branda motioned to approve the financial statements as presented, seconded by Mr. Rafferty. Motion passed unanimously with directed proxies. The Board instructed Ms. Maguire to send a homeowner to the attorney for collection on outstanding fines.

It was noted the Ms. Maguire at the last drive through, sent out reminder notices to owners who had vehicles parked outside of a garage or outbuilding. Per the Declarations, no vehicles are allowed to be parked outside at anytime, unless they are a guest or agent of an owner. Some owners think this rule applies to owner's vehicles, which it does not, the 72 consecutive hour rule applies only to short term guest or agents of owners as described in the Declarations 9.2(h). The current and past Board of Directors understands there are times that a homeowner will need to park a vehicle or trailer outside. Therefore, we will grant a waiver for a maximum of 72 hours for a personal vehicle or trailers that on rare occasions would need to be parked outside. If a homeowner has more vehicles / trailers or other items covered by 9.2(H) than fit into their garage or outbuilding they need to find a permanent solution and comply with 9.2(h)

The HOA taxes have been completed and were signed by the Board President to be mailed. The financial review by the Auditor has been completed and forwarded to the Board for review and approval.

## **VI. NEW BUSINESS**

An official quote of \$7,500 was submitted to the Board and approved from the Colorado Water Plans, Dr. Jerry Koch and Craig Curl.

The quote of \$7,500 will include a base line research of our water, recommendations for the HOA and a seminar for the homeowners. The seminar will be held on October 16, 2008 at the Philip Miller Library, Castle Rock Bank Room West. Invites will be mailed to all Keene Ranch homeowners in advance.

Board Member Jan Redmond submitted her resignation to the Board of Directors effective August 1, 2008. The Board accepted the resignation from Ms. Redmond and thanked her for her volunteer services to the community. She will be greatly missed.

Mr. Boyle submitted his resignation on August 3, 2008. The Board accepted his resignation as submitted. After discussion the Board appointed Mr. Boyle to fulfill the remainder of Ms. Redmond's term that will end November 2009. Mr. Boyle accepted. Mr. Boyle's previous seat as a Board of Director will expire November 2008, therefore the Board per the Bylaws may appoint a Member of the Association, or they may wait until the membership vote at the Annual Meeting to be held on November 11, 2008. The Board will attempt to find a replacement before the Annual Meeting.

The Board instructed Ms. Maguire that any homeowner complaints regarding vehicles, trailer storage, should be submitted to the Board for their investigation. The Board will then instruct Ms. Maguire on how to handle.

Letters were reviewed that were sent by the HOA to 2695 Ballard Way and 2075 Marlin.

Due to the Alternative Energy Device legislation that took effect on August 5, 2008 the Board instructed Ms. Maguire to obtain the services of Winzenberg, Leff, Purvis & Payne, LLP to prepare a policy for the HOA/ARC regarding the Alternative Energy Devices for a fixed fee of \$180.00.

## VII. COMMITTEE REPORTS

Social Report – None.

Website – Ms. Richardson submitted in writing to the Board that they are looking into a utility that will allow her to add and delete individual passwords. It is work in process.

Trails – Ms. Branda has been able to round up volunteers in the community to prune back scrub oak that is encroaching onto the Equestrian Pedestrian Horse Trails. Many thanks to those homeowners who have stepped up to help.

It was noted that there is fencing down on Parcel 9; Ms. Maguire will send the owner a letter to notify them of this.

The ARC will be notified to review a fence leaning into a pond on Parcel 7.

Mr. Branda presented the proposed Equestrian Pedestrian Trail Rules. This will be reviewed by the Board for approval to placed at each trail.

Due to a recent request and concern from a homeowner, the Board requested an opinion letter from the HOA attorney summarizing the Associations duties and liabilities in connection with the use of certain Equestrian Pedestrian Trails by both members of the Association (“Homeowners”) and non-members and or trespassers. As a point of reference, the HOA is responsible for maintaining the trails per the CC&R’s. The HOA also does carry Liability Insurance.

The final opinion from the attorney is as follows:

A trespasser is "a person who enters or remains on the land of another without the landowner's consent." § 13-12-115(5)(c). Trespassers may recover only for damages willfully or deliberately caused by the landowner. § 13-12-115(3)(a). Thus, a trespasser may not recover for injuries or damages caused by naturally existing conditions or dangers on the Horse Trails, whether or not the Association has actual knowledge of their existence. However, if the Association creates a dangerous condition, such as digging a large hole or leaving dangerous materials on the Horse Trails, then the Association will likely be liable for any resulting damages.

A licensee may recover (i) for damages willfully or deliberately caused by the landowner, (ii) for damages caused by the landowner's unreasonable failure to exercise reasonable care with respect to dangers created by the landowner or which the landowner actually knew, or (iii) for damages caused by the landowner's unreasonable failure to warn of dangers not created by the landowner which are not ordinarily present on property of the type involved and of which the landowner actually knew.

A licensee is "a person who enters or remains on the land of another for the licensee's own convenience or to advance his own interests, pursuant to the landowner's permission or consent." § 13-12-115(5)(b). The definition of licensee includes a social guest. Id. In

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addition to the circumstances in which a trespasser may recover (*as discussed above*), a licensee may recover for damages caused by (a) "the landowner's unreasonable failure to exercise reasonable care with respect to dangers created by the landowner of which the landowner actually knew"; or (b) "the landowner's unreasonable failure to warn of dangers not created by the landowner which are not ordinarily present on property of the type involved and of which the landowner actually knew." § 13-12-115(3)(b).

Thus, a licensee may not recover for any damages caused by dangers existing on the Horse Trails that the Association does not know about. Further, a licensee may not recover for damages caused by a condition on the Horse Trails created by the Association as long as the Association exercises reasonable care in addressing or fixing the dangerous condition created by the Association. Finally, a licensee may not recover for damages caused by naturally existing conditions or dangers on the Horse Trails, even if they are not of a nature or are more severe or dangerous than conditions ordinarily present on horse trails, as long as the Association reasonably warns licensees of the dangers.

Moreover, the Colorado Recreational Use Statute ("CRUS") shields private landowners from most tort liability for damages suffered by those who come onto their lands to pursue recreational activities without charge. The purpose of CRUS "is to encourage owners of land to make land and water areas available for recreational purposes by limiting their liability toward persons entering thereon for such purposes." Colo. Rev. Stat. § 33-41-101 (2008). Under CRUS, "recreational purpose" includes, but is not limited to, "any sports or other recreational activity of whatever nature undertaken by a person while using the land, including ponds, lakes, reservoirs, streams, *paths*, and *trails* appurtenant thereto, of another and includes, but is not limited to, any hobby, diversion, or other sports or other recreational activity such as: Hunting, fishing, camping, picnicking, *hiking*, *horseback riding*, snowshoeing, cross country skiing, bicycling, riding or driving motorized recreational vehicles, swimming, tubing, diving, spelunking, sight-seeing, exploring, hang gliding, rock climbing, kite flying, roller skating, bird watching, gold panning, target shooting, ice skating, ice fishing, photography, or engaging in any other form of sports or other recreational activity." Id. (emphasis added).

Under CRUS, a landowner who either directly or indirectly invites or permits, without charge, any person to use property for recreational purposes does not thereby "(a) extend any assurance that the premises are safe for any purpose; (b) confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed; or (c) assume responsibility or incur liability for any injury to person or property or for the death of any person caused by an act or omission of such person." Colo. Rev. Stat. § 33-41-103(1) (2008). Notwithstanding the foregoing, nothing in CRUS limits in any way any liability which would otherwise exist "(a) for willful or malicious failure to guard or warn against a known dangerous condition, use, structure, or activity likely to cause harm; or (b) for injury suffered by any person in any case where the owner of land charges the person who enters or goes on the land for the recreational use thereof . . . ." Colo. Rev. Stat. § 33-41-104(1) 2008.

If a court found that the Horse Trails, and any damages stemming from use of the Horse Trails, were governed by CRUS rather than the CPLS, then the Association would be further shielded from most tort liability for damages suffered by those who come onto its lands to pursue recreational activities without charge, and who otherwise would have been classified as licensees, invitees, or trespassers under the CPLS.

#### **VIII. UNFINISHED BUSINESS**

A confirmation of the Water Rights Seminar will be held on October 16, 2008 in the Castle Rock Room West, time to be announced and an invite will be mailed to all Keene Ranch Homeowners.

#### **IX. ADJOURNMENT**

There being no other business to come before this meeting, upon motion duly made, the meeting was adjourned at 5:45 p.m.

The next Keene Ranch Homeowners Association Meeting will be held at the Philip Miller Library at 4:00 p.m. on Tuesday, September 16, 2008 in the Staff Conference Room.

Respectfully Submitted,

Kim Maguire, Community Manager