

Bear Trap Landowners Association  
Special Meeting Minutes to discuss our Bylaws,  
Insurance coverage and BTR road work.

May 13, 2017

Four Mile Community Hall

- I. Call to order: Brenda Schloemann at 1:05 pm. Present were Charlie Spencer (lot 177), Ken Andrews (lot 146), Sue Pepin (lot 10), Jan Schmidt (lot 190), Brenda Schloemann (lot 191), Jean & Bob Kane (lot 187), Rick & Dawn Scheffel (lot 21), John Chaffee (lot 136), Joanne Gordon (lot 181), Rick Pepin (lot 10), Janice & CJ Lekan (lot 49A), Jeorganne, Joel, Brandon Estes (lot 18), Rick McVey (lot 37), Austin Hartman (lot 178), Sue Anderson (lot 28), Nancy & Jim Davis (lot 121), Steve Schmidt (lot 190), Dorothy Veillard (lot 10), Austin Hartman (lot 178), Bill Schreckengost (lot 171), Jay & Melissa Ehart (lot 36), Barbara Andrews (lot 146), Tony Knoerzer (lot 6), Harold Haver (lot 57), John Sellers (lot 66).
- II. Austin Hartman (lot 178) described current road work progress since the annual meeting including the following:
  - A. Apache Hill drainage has been improved and seems to be working as designed.
  - B. Austin has added a plow to an old Toyota Pickup truck which he will use for road work and snow removal.
  - C. An extensive grading project which included Sioux, Apache Trail, Apache Place, Pine, Cherokee, Cheyenne, and Hopi. Totaled 13.7 miles of association roads.
  - D. 13 loads of road base were distributed mostly on Sioux and at the entrances to the ranch.
  - E. Austin explained that Kent purposely grades the old non compactable road base to the side of the road as a wind row. It lacks clay and no longer functions as a base for the roads.
  - F. Austin also mentioned that leaving loose gravel that lacks clay on the roads causes washboards.
  - G. Next grading project will involve Shoshone, Iroquois, Black Foot, Choctaw and Comanche and will total 4 miles.
  - H. Banking at top of Apache Hill was discussed.
- III. Charlie Spencer (lot 177) gave a PPT on three issues of concern to BTR landowners including bylaws (with potential changes), changes in BTR insurance policies and road work. See BTRLOA website for PPT file.
  - A. A lawyer evaluated our bylaws and noted several ambiguous aspects to them involving membership in the association, mandatory assessments and lack of serious enforcement powers for those who don't pay their assessments.
    1. First question: Is membership in the Association mandatory or voluntary? Bylaws say landowners **are entitled to be** members of the Association. The BOD

suggests we delete the bold faced wording so that all landowners are automatically members of the association.

2. Second question: Are the assessments levied by the Association under Article VIII, Section 1 of the bylaws voluntary or mandatory? It was determined that assessments are mandatory for members of the Association. Not clear if landowner is a member of the Association. See 1 above.
  3. Third question: What are the enforcement powers of the Association as to unpaid assessments? As written the bylaws say landowners who don't pay their assessments are delinquent members and they cannot vote at BTR meetings.
- B. Discussion on the above three questions was lively and involved several in attendance.
1. Membership in the Association for all landowners was not a major area of conversation. No one objected to the proposed change in wording.
  2. Mandatory assessments for Association members stimulated some conversation, but not much objection to it.
  3. Enforcement powers of the Association as to unpaid assessments generated much discussion with the following landowners participating: Tony Knoerzer (lot 6), Jay Ehart (lot 36), John Sellers (lot 66), Barbara Andrews (lot 146), Rick McVey (lot 37), Austin Hartman (lot 178), Rick Scheffel (lot 21), Harold Haver (lot 57), Bill Schreckengost (lot 171) and Steve Schmidt (lot 190).
    - a. Attendees discussed several types of enforcement most pertaining to the issuing of liens against property whose owners have not paid their assessments. Questions about grandfathering those who have not paid, the timing of attaching liens to property, the cost of doing so to the Association and the feasibility of issuing liens were discussed.
    - b. It was suggested the BOD look into developments like Old Kathleen, Clover Mountain and Four mile ranch for how they have handled assessments, etc. The Canyon City Bank should have records, we were told.
    - c. It was suggested we send our changes to the bylaws and articles of incorporation (if any) out to the landowners for their perusal before the next BOD meeting in July.
- C. Discussion of the insurance changes generated little debate.
1. The new policies on general liability, Directors and Officers Errors and Omissions and Financial loss will save us \$1601.
  2. Discussion of the insurance for the plow truck involved who can use, is it titled, and where can it be driven on the ranch. Austin is the primary driver, we don't have title yet, but we are looking into it, and the truck is only insured for driving on the ranch.
- D. Discussion of road work issues.

1. A document delivered to the BOD at their last meeting Feb.4, 2017 raised two important issues which were that the landowners owned the roads and these landowners believe they can do road work at any time without Board oversight.
2. On Feb. 14, 2017 the board responded to all landowners who signed the document stating our position that:
  - a. The bylaws assign the responsibility for road maintenance exclusively to the BOD.
  - b. The Articles of Incorporation and ROW deeds establish that the roads are owned by the Association and not by individuals.
  - c. Road work is performed under the provisions of the Road Work Policy which assures quality of work that is in the best interests of all members.
  - d. No road work is allowed without Board/RCC approvals per road work policy.
3. On March 23, a landowner emailed his intention to use his grader on the roads regardless of Board approval.
  - a. The board contacted local law enforcement to ask whether they could be called upon to intervene if necessary and they indicated that since the roads were private, such an action would be considered a trespass, and they would respond if asked.
  - b. The board let the landowner know we would request the sheriff's department assistance if the landowner carried out his intended action and that he and his equipment would be escorted back to his property.
  - c. The Board consulted an attorney to address these issues: Do the bylaws and articles of incorporation demonstrate that the Association owns the private roads and does the board have the power to regulate the maintenance and the use of the private roads, including the Road Works Policy? The lawyers responses were:
    - i. The Association is a duly incorporated Colorado nonprofit corporation in good standing as shown by its Articles of Incorporation filed with the Colorado Secretary of State.
    - ii. The Association governing documents demonstrate the Association's ownership and control of the private roads.
    - iii. The board has the power to adopt rules and to regulate the private roads, including the Road Work Policy.
    - iv. As a Colorado nonprofit corporation, the Association has the statutory power to own and maintain the private roads.
    - v. The 1972 Deed states that such deed conveys "all right, title, interest, claim and demand" regarding the private streets to the Association.
4. Discussion on the road work policy centered on the change from a group of volunteers working the roads without oversight to the requirement for contacting the Road Committee to do road work currently.

- i. Several long term landowners who used to work the roads without oversight expressed their dissatisfaction with the new system.
  - ii. It was pointed out that the Board has hired Robles Construction (Kent) for the next three years to maintain and work the roads. It was pointed out that Kent does road work for a living (i.e. he is a professional) and has several other HOA or LOA roads he maintains. Inspection of those roads indicating he does an excellent job.
  - iii. The lack of coverage for fires following the closure of Four Mile Volunteer fire department was mentioned.
- IV. There being no further discussion, the meeting was adjourned at 3:30pm.