

**Summit Residential Owners Association
Board of Directors Meeting
Minutes
Wednesday, June 19, 2024**

Presiding: Tim Gueramy

Location: ZOOM

Present: Tim Gueramy
Marian Hilpert
Sandy Funk
Marshall Funk
Erin Dicke, Toad Property Management
Marcus Lock, Law of the Rockies
Peter Esselstyn
Paul Peeples
Craig Batchelor
Bruce Fauser
Casey Schorr
Jack Glover
Tracey Haas
Laura Shelton
Ryan Hall

Absent: Charlie Berger

I. Call to Order

Erin called the meeting to order at 4:32 p.m. Notice of the meeting, attendance, and quorum were confirmed.

II. Minutes

Motion #1: Board Meeting Minutes from May 2, 2024
Marian MOVED to APPROVE the minutes as presented, with Tim seconding the motion.

PASSED BY UNANIMOUS APPROVAL

III. Trees in Skier Easements - lots 12 & 13

Tim introduced the issue at hand. Several years ago, and without permission, Craig Batchelor planted trees inside the association's easements running along the property line of lots 12 and 13. The board recently had all the easements surveyed. The board must decide how to proceed, as the trees completely obstruct these pedestrian and skier easements.

Mr. Batchelor addressed the board, saying that he had spoken with legal counsel and was advised that the first agreement to remove the trees upon request with his then-neighbor is no longer in effect. He was also advised that he cannot cut down the trees in the easement on the lot next door as they are on someone else's property. He also questioned why we would need to clear these easements when other easements are available for use in the neighborhood.

Executive Session

Motion #2: At 4:40 p.m., Marian MOVED to APPROVE that the board enter Executive Session to discuss the trees in the easements between lots 12 and 13 with legal counsel pursuant to Colorado Revised Statute 38-33.3-308 4(b). Tim seconded the motion.

PASSED BY UNANIMOUS APPROVAL

Motion #3: At 5:07 p.m., Marian MOVED to APPROVE that the board exit Executive Session. Tim seconded the motion.

PASSED BY UNANIMOUS APPROVAL

IV. Marcus Lock, Law of the Rockies

Mr. Lock presented his legal advice to the board regarding the skier easements. He shared his screen and presented an agreement signed by Mr. Batchelor in which he agreed to remove the trees and landscaping from the easements upon the request of the Summit HOA (dated February 28, 2017). He also shared an Improvement Location Certificate showing, among other things, the property line and the easements along lots 12 and 13. The agreement signed by Mr. Batchelor covers all trees in both easements (lots 12 and 13). The board can require him to clear all the trees there. ~~Clearing the trees at the direction of the association and in accordance with the signed agreement does not constitute trespassing on lot 12 because the removal of the trees is consistent with the scope and purpose of the easement, and There is no trespassing concern in clearing the trees on the easement falling on lot 12 because the easement is the dominant estate.~~ Mr. Lock is particularly concerned about ski access related to the trees, as trees can be a dangerous skier hazard. ~~Seeking indemnification from Mr. Batchelor, should the trees remain in effect, could be complicated.~~ Though several options were presented to the board, Mr. Lock recommends that the board request Mr. Batchelor to remove the trees pursuant to the agreement, by a certain date (4 weeks is reasonable). ~~Any other course of action leaves the HOA with potential risk and other concerns.~~

V. Homeowner comments

Erin opened the floor for homeowners' comments, asking that each lot owner speak once and limit comments to three minutes.

Mr. Batchelor spoke, reiterating his concerns. He asked for Mr. Lock to speak with his attorney.

Bruce Fauser asked why the board is focusing on these two easements when utilities block another easement, and a driveway runs over part of another easement. Marcus commented to the board that a driveway does not necessarily encroach on a skier or pedestrian easement so long as it as it doesn't hinder its use for the intended purpose of skier and pedestrian ingress and egress. Mr. Fauser asked if the board plans to remove the electrical boxes at the bottom of the easement. Mr. Fauser commented that he hopes the focus on this easement is not personal.

Casey Schorr was taken aback to learn that the board is considering removing the trees. He expressed that he would be upset if they were removed and that the easement between lots 11 and 12 is easier to use.

Peter Esselstyn doesn't understand why the board hasn't addressed other easements. He stated that the easements in question are ingress only, and no one uses them.

Ryan Hall commented that he is currently planning to construct a new home across from the easements in question. These easements are essential for his family to access the mountain.

Tim addressed the above questions and his opinion on proceeding, given homeowner feedback and Mr. Lock's legal advice. A couple of other board members also shared their thoughts. The board comments focused on risk for the HOA, protecting the easements for the entire community, and moving forward with a plan that minimizes costs.

Motion #4: Tim MOVED to APPROVE that the board require Mr. Batchelor to remove the trees and landscaping from both easements on lots 12 and 13 and restore the land to its original condition by July 19, 2024. Marshall seconded the motion.

PASSED BY UNANIMOUS APPROVAL

VI. Adjournment

Motion #5: Marian MOVED to APPROVE the meeting adjournment at 5:36 p.m. Tim seconded the motion.

PASSED BY UNANIMOUS APPROVAL

The meeting **adjourned** at 5:36 p.m.

Respectfully submitted,

Marian Hilpert, Vice President