

Lions Head Water Users Association Annual Meeting Minutes

August 11, 2006

6:05 PM

Roll Call:

Alan Scott and Anne Meininger – Lot 14

Jon Zusy – Lot 8 Elk Springs and Lot 16 Elk Stream

Greg Schamaun and Pat Kieffer – Lots 10 and 12

Lots represented by proxy – Lots 11, 13 and 15. All proxies were given to Anne Meininger, the Secretary.

Proof of due notice:

Notice of this meeting was sent out on July 6, 2006.

Nominations for Vacancy on the Board of Directors:

Jon Zusy resigned as director late last winter, and Ron Trujillo rejoined the board. When Ron sold his last lot on July 1st, he resigned, as he was no longer eligible to serve as a director. Greg Schamaun then joined the board. Alan Scott, Anne Meininger, and Greg Schamaun are on the ballot. There were no write in nominations, and no nominations were made from the floor.

Report of the President or Vice-President:

Alan Scott reported that there were no changes to the water system this past year. No one connected to the system, and it is still mothballed. This situation will change in the next twelve months, however, as there is at least one lot planning to connect to the system. Alan Scott and Anne Meininger are planning to begin construction of their house on lot 14 in the spring/summer of 2007. Greg Schamaun of lot 12, and the Bejda's of lot 11 may also start to build in the next few years.

Alan also mentioned that we have two new members. The new owners of lot 13 are Gary and Betsy Queen, and the owners of lot 11 are Allen and Vickie Bejda.

Alan stated that, according to our water master Clint Brooks, we do not have to prove beneficial use of water this year. Jon Zusy asked about proving beneficial use in the past. Alan explained that beneficial use was proven by filling a pond on lot 11. Ron Trujillo, as the developer, dug the pond on lot 11, installed a fire hydrant on both lot 11 and near lot 14, and used the fire hydrant on lot 11 to fill the pond. This was considered beneficial use because cattle could have access to this water. Due to the drought, the association has not had to prove beneficial use in the past three years.

Jon Zusy then asked if Ron Trujillo's development company had executed a deed transferring documents and water rights to the water users association. Alan stated that he did not know if this had been done, and said that the board would look into this issue.

Report of the Secretary:

Minutes of the 2005 annual meeting were sent to all members, along with a copy to the directors of Elk Stream. Anne Meininger indicated that in the future, Lions Head Water Users Association plans to have an external link on the Elk Stream website, and minutes and other documents of the association should be available on this website.

Report of the Treasurer:

There was a balance of \$3,467.17 at the beginning of August, 2005, and \$2000 was deposited (8 lots @ \$250). Expenses for the year were \$801.99 for electric bills for our meters and heating of the pump house. (See Financial Summary). The costs associated with our electric meters were discussed. (3 meters at a little over \$16 base cost each month per meter, plus electricity to heat the well house - see Addendum to Financial Summary). Jon Zusy asked for clarification about the location and function of the three electric meters. Alan Scott explained that one is on the well on lot 8, one is at the upper well on lot 15, and one is at the lower transfer station. Normally we have a \$25 business report fee for the state of Colorado that Ron Trujillo forwards to us, but it seems that Ron has paid it for the year, as according to the state, it has been paid. Ron has not sent us a bill for reimbursement. Our ending balance was \$4,665.18.

Election:

Alan Scott, Anne Meininger and Greg Schamaun were elected to the Board of Directors for a one year term.

Unfinished business:

There was no unfinished business.

New Business:

Alan Scott introduced the subject of liability insurance for the directors, and the possibility of placing an indemnification clause in the bylaws as a means of reducing liability for the directors. Alan presented a proposal for an indemnification clause to those present at the meeting. Jon Zusy suggested tabling this proposal until the next meeting. Greg Schamaun asked Jon how much protection is given to the directors by an indemnification clause, but Jon declined to offer legal advice. He recommended that the association retain counsel to evaluate this indemnification clause, and the board took this under advisement.

Alan then discussed the impacts to the water system due to connections in the near future. He summarized information recently obtained from Clint Brooks, our water master. Clint had indicated that the water system is in need of maintenance. He did an inspection of the water system this week, and discovered that he could not get water to flow between the pump and the lower cistern. He postulated the reasons for this pump malfunction could be either damage to the radio transmitter (possibly due to lightning), or nonfunctional batteries. Also, he discovered another more problematic issue, which is the presence of crickets in our water tank. He considers this an environmental contamination, which would make the system unacceptable as a potable water source. What is needed to correct this problem is to drain and clean the lower cistern, flush the lines, and chlorinate the water. Also, the level of the water in the lower water tank is low, and Clint is not sure if there might be a very slow leak somewhere around the cistern. This problem also needs to be investigated. A cost estimate for this maintenance and other corrective measures is in the \$1,000-\$2,000 range, but Clint is not sure at this point. Alan has volunteered to assist Clint with this work,

both to help mitigate costs and to reduce liability as Clint is inspecting and cleaning the water tank. There was discussion whether multiple bids for this work were necessary. It was decided that multiple bids were not needed, as Clint knows the system well because he installed it, and would be the best person to evaluate the problems. Clint's fees for prior annual maintenance (approximately \$400 per maintenance) were discussed, as it appears that Ron Trujillo has been paying these fees, and Lions Head has not been billed. The cost of bringing the system up to a "live" status next spring/early summer was also discussed. An estimate of up to \$2000 was made by Clint, but these costs will probably decrease if maintenance and corrective measures are performed this fall. Other costs incurred by bringing up the system were also mentioned, including the costs of testing the water for potability. Alan mentioned that the association has been slowly building up a cash reserve to help cover these costs.

A member had previously requested that annual dues be discussed at this meeting. Alan Scott explained that each year the cash balance in August is at almost the highest point for the year, since this is fairly soon after we have received our \$2000 in dues payments. In the first year after the association was established, annual dues were only \$100 per lot, and the balance over the year went down to almost zero to cover the electric bills. The next year the association voted to increase the dues to \$250 per lot. Since then, the association has been accumulating funds for maintenance of the system, for anticipated costs to bring the system up to a live status, and to build more cash reserve. As previously mentioned, our cash reserve would be less if the association had been paying Clint Brook's maintenance fees rather than Ron Trujillo. Anne Meininger summarized future costs which will affect the budget. These include start-up costs, maintenance costs, repairs to the system, and the possible need for liability insurance or other types of insurance once the system goes live. Alan discussed the increased costs associated with homeowners connecting to the system. He explained that it is the intention of the association to allocate the incremental increase in costs due to the system being operational to those who are connected to the system. The costs for water are stated in the rules and regulations, which can be changed by the directors. We presently have a base rate for a certain number of gallons, with cost increases per gallon for higher numbers of gallons used. Therefore, those who use more water will pay a higher rate per gallon than those who use less. Alan stated that the rates will need to be adjusted according to the increased costs that we encounter as we bring the system on line. It will take some time after the system is operational to determine these increased costs, but the association will do its best to cover these costs equitably.

There was additional discussion about liability insurance for the directors, and also, general liability insurance and property insurance. An indemnification clause in the bylaws may partially alleviate the need for liability insurance for the directors, but once the system is live, general liability insurance, and possibly property insurance, may be needed. The directors will look into the costs of general liability and property insurance before the next annual meeting.

Jon Zusy then made an inquiry concerning tap fees. Alan Scott answered that all tap fees were assessed at the time of sale of the eight individual properties which constitute Lions Head Water Users Association. It was also mentioned that Ron Trujillo, the developer, assessed the tap fees to cover the cost of putting in the water system, which cost approximately \$120,000-\$150,000.

Jon Zusy also asked about an inquiry which was made by Elk Springs Ranch concerning our water system. Alan Scott explained that it was an informal inquiry which was made by Clay Loving, an Elk Springs director. Clay expressed Elk Springs Ranch's concern about the Lions Head well which is located on lot 8, Elk Springs. There is concern about the impact of this well on the water table in the area, especially the well on lot 7 of Elk Springs Ranch. Alan told Clay that it is the intention of the water company to use the well on lot 15, Elk Stream, as our primary well, as it is a

better well. The well on lot 8 was not sufficient in volume capacity over a 24 hour period to meet the requirement for a community well. Therefore, it will be used as a backup well only. Clay was also under the mistaken impression that lot 8 Elk Springs is not part of our water system. Alan told him that it is one of the eight lots comprising Lions Head Water Users Association. Clay also told Alan that Elk Springs is analyzing their covenants to determine if the covenants are in agreement with moving water outside of Elk Springs. Jon Zusy stated that it would be prudent to stay in touch with Elk Springs, and make sure that their concerns are satisfied. Jon also mentioned an easement issue that Clay had mentioned to him. There was some discussion about where the water lines were located, and the issue was raised that we might want to obtain a map from Clint Brooks which details where the lines are located for future reference. There was also a discussion about the collection of dues which are not received on time, and the responsibility of the association to collect these assessments.

Greg Schamaun then brought up the subject of fire hydrants. The water company presently has two hydrants, one on lot 11 by the pond, and one near lot 14. These hydrants are attached to the water system. Presently these two hydrants are tagged as “not operational”. More hydrants, particularly down lower and available to other lots in Elk Stream Ranch, could overwhelm and harm the system if too much water was pumped too rapidly from additional hydrants. Greg asked about the possibility of having a reservoir up on top of the ridge which could serve as a “dry” hydrant. Dry hydrants are basically ponds, reservoirs or cisterns filled with water from which the fire department can pump water using pipes or tubes which are installed in these sources of water. These dry hydrants are not connected to the water system. Alan answered that dry hydrants might be a good issue for the association to consider.

From the floor:

Nothing was brought up from the floor.

Adjournment:

The meeting was adjourned at approximately 7:20 PM.

Action items for the Board of Directors:

- Look into whether there has been a deed executed transferring documents and water rights to the association.
- Develop a Lions Head website as an external link on the Elk Stream Ranch website (www.elkstreamranch.org).
- Retain counsel for drafting of an indemnification clause to add to the bylaws.
- Repairs to water system and annual maintenance (Clint Brooks)
- Check costs of general liability and property insurance, and present at next annual meeting.
- Follow up on Elk Springs inquiry.
- See if we can obtain a map of the water lines locations from Clint Brooks.

Notes:

- The Lions Head website is available at www.elkstreamranch.org – click on external links, then on Lions Head Water Users Association.
- Tru-Worth Ltd. and Lions Head Water Users Association have executed a bill of sale and a quit claim deed transferring all wells, pipelines and other infrastructure, as well as the well permits for the two wells, to Lions Head Water Users Association.
- The Board has had an indemnification clause drafted by a lawyer. This clause will be sent out to the membership with the mailing in early July, and this indemnification clause will be voted on by the membership at the annual meeting in August.
- In April, repairs to the water system were nearly completed by Clint Brooks. The presence of crickets in the water tank was due to lack of a proper O-ring on the tank lid, and a new one will be installed. The radio transmitter wasn't working due to a dead battery, and the battery was replaced. The low water level in the tank was due to the dead battery in the transmitter, and a faulty float. The float was also replaced. The tank was completely cleaned out and the water system was chlorinated. There will be additional costs to flush the system to bring it to a live status this spring/early summer. Costs for these repairs and maintenance are not yet known.
- Alan Scott has been in communication with the Elk Springs Ranch directorship concerning their issues about the well on lot 8, and the easements obtained by Ron Trujillo for Lions Head Water Users Association. At the present time, these concerns have been clarified by both parties, and we are very close to resolution of these issues. There will be an update at the annual meeting.