

**Secretary's Report of the Annual Meeting and Board of Director's Meeting of
Kinesava Homeowner's Association, Inc.**

March 14, 2015 – 10 a.m. to 3:00 p.m.

Canyon Community Center, Springdale, UT

Present:

Darci & Jeff Carlson
Gary Hunter
Dan and Roxy Mabbutt
Paul Mailloux
Randy & Peggy Taylor
Barbara Bruno & Kelly McKean
Joe Baumhauer
Doug Alger
Ann Hinckley
David Post
Betina Lindsey

I. Secretary's Report:

- a. Quorum. Roxy Mabbutt confirmed that a shareholder quorum was present.
- b. Approval of last year's minutes. The minutes were approved without objection.
- c. Proxies

Roxy Mabbutt had 2 proxies from Phillip Bimstein
Paul Mailloux had 2 proxy from Vincent Chiarello

- d. The meeting was recorded.
- e. All voting throughout the meetings was done with open voice.

II. Financial Report:

- a. All assessments were paid for 2014.
- b. There were no liens on properties as of the end of 2014.
- c. Rockville/ Springdale Fire Department fees increased a lot. Before the pasture and common areas were treated as one entity, they are now are treated as individual properties. If anyone would like to see more information pertaining to this issue - please see Peggy Taylor.
- d. There is no change in the due dates of annual assessments.
- e. See Treasury Report attachment - for checking account, infrastructure and forecast reports.

III. President's Report:

There were new members - so introductions for all audience members present were given.

Paul Mailloux gave his President's Report as part of the Discussion.

IV. Election of the Board of Directors: Doug Alger, Gary Hunter and Roxy Mabbutt were up for re-election and they all agreed to serve another 3 years. Douglas Gregg is no longer a member of KHAI (moved to Las Vegas).

MOTION

Joe Baumhauer motioned to re-elect Doug Alger, Gary Hunter and Roxy Mabbutt.

Barbara Bruno seconded.

The motion passed unanimously.

MOTION

Barbara Bruno motioned to elect David Post.

Doug Alger seconded.

The motion passed unanimously.

V. Discussion and President's Report.

a. Infrastructure Fund - see Treasurer's report and proceeding minutes.

b. Roads.

All the concrete sections that have been done are performing wonderfully.

Allen and Bud Lee removed winter ice from Mukunuweap and Parunuweap Circles as no one could get up or down. The rocks that fell down and blocked Mukunuweap came from lot 28 and will be addressed later.

A load of road base was brought in and spread in about a 4" lift over the existing surface of the KHAI owned dirt road leading to the gate at the north end of the pasture and to lot 2. This was done in hopes of curtailing the deposit of dirt, clay and rocks on the concrete section of Serendipity Lane at the end of the dirt road. A geotechnical fabric was not installed to stop the upward migration of the clays on the dirt road because it doesn't work. Road base was spread on the first 75' of road.

In the prolonged period of rain recently, the road turned to mush. Allen Lee and Paul agreed that no solution exists short of re-grading the road to have a positive pitch for water to drain off the surface along the dirt roads entire length. This will be a substantial project and Paul doesn't think it can provide the necessary drainage without installing a bar ditch on the hill side of the road with a culvert at either end to drain water into the pasture. Betina Lindsey has requested that we spread more gravel on the road to where her driveway splits off the dirt road - which can be re-graveled every few years.

Box Culvert at SR-9. In the heavy rains last summer, for the first time in recent history the main drainage channel along Serendipity Lane outperformed the box culvert under SR-9. KHAI thanks Doug Alger for his efforts in removing a major portion of the mud that came to rest across Serendipity Lane at the SR-9 right of way. The box culvert underneath SR-9 has very little clearance. This is a UDOT problem and it could be some time before they fix it. Randy Taylor spoke to the town and they said if the owners on either side of the box culvert will clean out the ditch then UDOT will fix their part. This involves cleaning down to 'flow line' or 3 feet. The other side of the drainage channel might be owned by - we believe Patsy Hosey. The other side of the box culvert is owned now by the Paiutes. Several members thought letters to the town and UDOT about our concerns with safety would be a good idea. Dan Mabbutt's web page would have worked well for this purpose.

Action Item: Doug Alger will take this project on - start by talking to Rick Wixom to see if he can set up a meeting of owners.

Heavy rains and hillside sloughing have contributed to an excess of water being directed down the concrete swale built on the steep slope at the intersection of Mukuntuweap and Parunuweap Circles. The culvert running beneath Mukuntuweap Circle has no inlet and he suggested that KHAI develop a policy where no more cutting of drainage ditches occur at the base of these steep slopes. The shoulders are private ground and legally KHAI can't touch people's property, therefore, KHAI can't do any shoulder work to fix this problem or KHAI could be liable. The shoulders are private ground. John Montgomery is going ahead with his project which might be done in stages on lot 28 and Paul would like to cooperate with his general contractor for the project in providing subcontractors to KHAI to produce a drainage swale in the road surface of both Circles completely on KHAI property. Board will visit this area after the General Meeting.

NOTICE: KHAI recommends that the owners of properties having terrain above KHAI owned roadways be financially responsible for damage to and cleanup of those roadways. KHAI, however, will limit its remedial activities to the roadway surface area or to areas that are solely KHAI property.

c. During the installation of the wall along the front yard of Paul's house, he had Allen Lee remove a pile of 4' boulders that choked the main channel at a location proximate to the common corner of lot 6 and lot 4. This area is chronic for flood waters spilling out of the channel, across lot 4 and the common area and onto private property outside of Kinesava Ranch. Paul suggested that the Board of Director's visit this area after the following General Meeting and decide how to prioritize a remedy to this overflow.

d. Pasture. The Board of Directors would like the front fence of the pasture to remain looking like it is. However, railroad ties are getting scarce and Paul doesn't want to buy ties and planks only to have them stolen before they can be used. Cows will have to be contained somewhere else while this fence is being repaired. Louis Garcia has put some steel stakes behind the railroad ties and wired them together for the time being. Some fence sections along Serendipity Drive are being bent by the cows trying to reach grass on the other side. These parts of the fence can be repaired using steel posts and wire.

Action Item: Doug Alger and Jeff Carlson will contact Luis Garcia to begin fixing this problem.

Betina Lindsey wondered if the cows were being fed enough. Several members present said they thought they were as there is a lot of hay bales at the barn and the cows aren't skinny. In a previous year, there were too many cows and the grass was overgrazed. Some members wondered if it would ever recover.

Betina Lindsey also asked members to keep out eye out for the safety of the cows. For example, she removed some barbed wire from one of the cow's mouth once.

Jeff Carlson has purchased an inlet pipe fixture to place at the inlet of the overflow pipe in the ditch that encircles the northwest and southwest side of the pasture. Currently, muddy water is spilling out of the ditch by leaking around the outside of the culvert. Paul doubts that the repair of the pipe will have a significant impact on the amount of siltation occurring in the pasture.

Action Item: Jeff Carlson said he could get John Lee and his tractor along with several volunteer homeowners to fix this problem. He will pick a day.

e. **Springdale Lighting Ordinance.** Homeowners are reminded that this ordinance takes effect in 2017 so be aware of this if you are remodeling or building. The owners of lot 7 have done everything necessary to bring their outside lights into compliance. Roxy Mabbutt reminded members that the ordinance is not just about the night sky but also about protecting the native wildlife that come out at night and that if you really don't need outside lights turned on, leave them off, and also put some kind of shades on windows.

f. Sign. Roxy Mabbutt would like to replace the dilapidated Parunuweap Circle sign at the junction of Parunuweap and Mukuntuweap Circle.

Action Item: Doug Alger will check with the Springdale and see who did theirs.

g. Speed Limit. Fed Ex and UPS are still speeding and turning around on lot 7. Members are asked to remind visitors and contractors, etc. to obey the speed limit. Drainage repairs to the road will involve swails (not bumps) and will help to control speeding.

h. Surveillance Cameras. The plans for the project on lot 7 as submitted to KHAI and the Springdale Planning Commission did not include documentation for the placement of Surveillance Cameras. The Town of Springdale has no ordinances about surveillance cameras. Paul Mailloux received permission from Board members to seek legal assistance concerning the installation. The homeowner of lot 7 said it was added after occupancy and no one came and asked about them and they only cover driveway and doors.

The following information does not constitute a formal legal opinion. It does represent the findings of research into the matter by KHAI's attorney. Surveillance cameras are governed by two legal tenets. Should the installation be capable of penetrating through windows to resolve images of the interior of adjacent structures, the installation violates the rights of privacy under the 4th amendment and therefore is a federal offence. The second tenet falls under the general heading of nuisance. Exterior residential yards are considered public spaces inasmuch as, without barriers such as fences in place, residents can have reasonable expectations of knowing when they are in public view due to the presence of viewing parties from other private and public spaces. Anxiety derived by the lack of such knowledge is considered a nuisance governed by state and local laws.

For transparency reasons, this information is offered to the general membership. As Paul Mailloux is an affected homeowner, he is going to ask the Board of Directors about construction of a fence to afford him the semblance privacy. The Town of Springdale has already approved his fence design.

Doug Alger reminded homeowners to talk to neighbors first before assuming the worst and work problems out before talking to lawyers.

For homeowner's information - it is illegal to take off and land drones in Springdale.

i. Lot 28 Agreement (Mukuntuweap Drive protection). John Montgomery allowed Peter Stempel to have an excavator subcontractor of Brandon Neilson estimate the size and cost of the cleanup from a gross slope failure bringing soil, rocks and structure down onto Mukuntuweap Circle. The bond provides KHAI with \$14,150.00 for 8 years for cleanup and restoration of Mukuntuweap Circle. The bond remains in effect for 8 years and roughly duplicates the liability insurance policy coverage of the general contractor. Originally, the funds were to be deposited in an escrow account. Paul Mailloux and Roxy Mabbutt agreed that the funds should stay with John Montgomery until an invoice for KHAI expenses covered under the agreement be forwarded to him. Paul Mailloux is currently proposing that change to Natalie Segall, his attorney. Paul Mailloux and John Montgomery have both signed.

j. Possibility of future special assessment. This item regarding KHAI infrastructure is clearly aimed at satisfying the letter of the law. If homeowner associations cannot fully or in part perform the tasks necessary to study and set up a reserve account for maintenance and or restoration of homeowner's association property due to a specific threat, the Board of Directors must notify all members of the association of the possibility for an unforeseeable and substantial special assessment in the future. Paul Mailloux will be asking the Board of Directors in the following meeting to approve such a notice to be sent out. Aside from the anticipated difficulty of receiving permission to conduct a study to determine the size and cost of the threat, the findings might constitute ground for legal action against KHAI for interfering with the sale of real property.

Notice to general members. Notice to state that because KHAI is not doing a reserve study on lots, members should be aware of the possibility for an unforeseeable and substantial special assessment in the future.

MOTION

Roxy Mabbutt motioned to close the annual meeting.

Paul Mailloux seconded.

The motion passed unanimously.

Board of Director's Meeting

1. Roxy Mabbutt confirmed that a quorum was present for the meeting.

2. All voting throughout the meeting was done with open voice.

3. Jeff Carlson would like KHAI to tell homeowners where their money is being spent. Roxy Mabbutt said homeowners should read the entire minutes package to get this information. If homeowners have additional questions, they should contact the Board.

MOTION

4. Roxy Mabbutt motioned to repair the road to Lot 2.

Paul Mailloux seconded.

The motion passed unanimously.

5. Possibility of Future Assessment. Paul proposed that a notice go out to all homeowners stating that because KHAI would have difficulty perform a reserve study on private lots similar to lot 28 which reside above roadways and common areas owned by KHAI without interfering with future sale of said lots, KHAI members should be aware of the possibility for an unforeseeable and substantial special assessment in the future. The motion was tabled this issue until KHAI receives a letter from the attorney for Board verifying the statute.

Action Item: Paul Mailloux will contact KHAI's attorney.

MOTION

6. Jeff Carlson motioned to increase the maximum allowable annual assessment for 2015 to \$614.00 (3% of \$596.00 and rounded up to \$17.00).

Gary Hunter seconded.

The motion passed unanimously.

7. Peggy Taylor passed a handout with inflation figures and she stated that adjusting for inflation, \$1958.51 has to be moved from saving into the Infrastructure account. The Infrastructure account would then be \$23,201.37. She recommends that KHAI use this inflation calculation yearly.

MOTION

8. Doug Alger motioned to set the annual assessment at \$475.00 per lot.

Jeff Carlson seconded.

All ayes except for Roxy Mabbutt who voted nay.

9. Election of Officers. All current officers were willing to serve another year. Dan Mabbutt stated at as his only duty is to take over if the President is unavailable, he will call a Board meeting as see if he can get another President. However, in the event he has to take over, he will run this association very differently.

MOTION

Jeff Carlson motioned to re-elect Paul Mailloux as President, Dan Mabbutt as Vice President, Roxy Mabbutt as Secretary and Peggy Taylor as Treasurer of KHAI.

Gary Hunter seconded.

The motion passed unanimously.

MOTION

Roxy Mabbutt motioned for the 2016 Annual Meeting of KHAI be set for the second Saturday of March 2016 (March 12) to be held at the Canyon Community Center if available.

Doug Alger seconded.

The motion passed unanimously.

The meeting was then moved to Serendipity Lane for onsite evaluation of problems.

10. Road to Lot 2. Financially KHAI can only afford to put down gravel every few years. Jeff Carlson measured the road. It was 308 ' long and 4' wide. This would require 45 yards of gravel. Board decided to have the road graded and graveled. Volunteer homeowners will help.

Action Item: David Post will get an cost estimate and bring it to the Board.

11. Cows wreaking fences. Several of the posts along Serendipity Lane are loose and there are large holes where cows have put their heads through.

Action Item: Doug will talk to Louis Garcia and find out have many steel fence posts he needs. Paul Mailloux will buy them and KHAI will then reimburse him.

12. Surprise Wash Boulders. In the wash been the two bridges are at least 2 large boulders that need to be removed. If they are removed, David Post would like them put on his lot.

13. Box Culvert at SR-9. Paul Mailloux can talk to Patsy Hosey and see if she is interested in cleaning out the wash. Paul Mailloux can also talk to Allen Lee to see if and when he can do the job.

MOTION Gary Hunter motioned to give Paul Mailloux to proceed with the above Box Culvert repair.

David Post seconded.

The motion passed unanimously.

MOTION

Doug Alger motioned to have Allen Lee remove the boulders and at the same time fix the SR-9 box culvert.

Gary Hunter seconded.

The motion passed unanimously.

Action Item: Paul Mailloux will work on numbers 10 and 11 and get back to the Board.

14. Junction of Mukuntuweap and Parunuweap Circles

This will be project 1a. On Parunuweap, Paul Mailloux proposes an angled swale between the fire hydrant and road sign on the pavement to channel water to the wash by the electrical box - to be done in colored concrete. This will also act as a speed bump.

MOTION

Paul Mailloux motioned to draw up a plan and come back to the board.

Roxy Mabbutt seconded.

The motion passed unanimously.

Action Item: Paul Mailloux will draw up plans and come back to the board.

This will be project 1b. On Mukuntuweap, Paul Mailloux proposes another angled swale that will channel water from an up-road slope to the edge of the two Circles - also in colored concrete. This concrete section will come up to the intersection edge of the two Circles.

MOTION

Paul Mailloux motioned to draw up a plan and come back to the board.

Doug Alger seconded.

The motion passed unanimously.

Action Item: Paul Mailloux will draw up plans and come back to the board.

15. Roadway in from of lot 11.

If there is any money left, colored concrete section starting at west end of lot 11 down to the manhole cover and pitched away from lot 7.

16. Greenhouse Fence.

Paul Mailloux wants to screen his greenhouse. He proposed a 'good neighbor' fence, semi-transparent and 6 feet tall. The fence will slope to lesser heights as it approaches his home.

MOTION

Roxy Mabbutt motioned to allow Paul to build his fence.

Gary Hunter seconded.

The motion passed unanimously.

MOTION

Paul Mailloux motioned to close the Board of Director's meeting.

Doug Alger seconded.

The motion passed unanimously.

Roxy Ann Mabbutt
Secretary, Kinesava Homeowners Association, Inc.

Enclosures:
Treasurer's Reports
Assessment Notice
Address List (report any changes or errors to Roxy Ann Mabbutt)