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BAC Zoom Board Meeting
April 18, 2025 5:30 pm to

Board members

Attending

Gary Martin	Kelly Fletcher
Brian Kennison	Joe Kemp
Jim Albu	Tanner Perkins

HOA Community Members

Andrew Gillett, Chris Decker
John Halverson, Brad Miller
Bob Piazza, Christy McQueen
Lorri Blankenship
Tim McQueen, Linda Steffes
Tony Steffes, Shane Tunnell

Denise Stearns, Secretary/Treasurer

Zoom meeting ID# - 849 0033 1688 Passcode - 017516

Meeting called to order at 5:30 pm by Gary Martin

The meeting was started with the Pledge of Allegiance.

Agenda: Discussion and possible action regarding three week follow up of March 28, 2025 gate closure as stated in August 9, 2024 board meeting.

Gary explained how meeting will be run. To paraphrase: As far as the general membership, you are all welcome. If there is a motion made and seconded, the board will discuss the matter. Members who wish to comment may do so on the motion only, please. Then, the board will vote. Gary then asked the membership to keep their mics on mute until their time to speak. During the August 2024 board meeting there was a vote to close the (Forest Service – FS) gate and then review the activity three weeks following the closure. The gate was closed three weeks ago today and this is the follow up meeting.

Gary invited the board to speak regarding the gate closure.

Brian Kennison

Reviewed the BAC Mission Statement: To serve members by pursing activities that protect the safety of members and their property, protecting and enhancing the property values of lots and supporting the pursuit of enjoyment of our environment within the jurisdiction and limits of the laws of Arizona.

Brian also reviewed the Road Policy – General Statement 1.1 - 1.4 See attachment. Brian's point is that the dirt section of ADR (with the gate at the bottom) is private not county. Brian says the complaint of the opposition is that it's a lack of convenience. It's the job of the board to keep the members safe. "To me safety overrides that, liability overrides."

Tanner Perkins asked what has changed with the road use since the gate closure. Gary said there has been very little traffic now. Gary mentioned the gate closure sign verbiage was discussed and approved in the August meeting. The signs regarding the gate closure were posted on March 28th. Brian added that the traffic overall has been really quiet. Several people have come up to see if the gate is open.

Joe Kemp asks, “When do we take into account our fellow home owners around here, their safety over convenience, home value, commissions loss whatever the case may be. That’s my goal. We need to keep our community safe.”

Kelly Fletcher Had nothing to add from what he said at the 4/12 meeting.

Jim Albu “Same for me. I agree with Joe, safety comes first and liability and community.”

Tanner asks about forest access in the area. Gary said there is one towards the highway 260, two miles away and the FS recognizes six ways to access the national forest in the Heber-Overgaard area.

Gary asked, Do we keep the gate closed, do we not?”

Joe made a motion to keep the gate closed
Kelly Seconded

Gary invited the community members who wish to speak to put their names in the chat for him to call on.

Andrew Gillett – “Thanks for the opportunity to speak.”

“Will the board be responding to the questions that were asked last week at the board meeting?”

Gary said no responses would be given during this meeting but would read a 2016 letter from Navajo County stating the HOA owns Artists Draw Road.

Andrew disagreed saying he has enlisted an attorney who has found that the road is deeded to the county, not the HOA. He raised concerns about HOA liability and questioned how the HOA would handle potential legal claims financially and if our insurance would cover legal representation. He asked the board to pause any enforcement until ownership of the road is clearly proven through official deeds, not emails.

Gary asked to read the letter with Andrew’s okay. Gary read the letter from Navajo County dated 04/01/2016. See attached. Andrew asked that this letter be posted on the website. Andrew asked if there was any legal documentation for members to review from the attorneys Gary spoke with. Gary responded that he and Brian had phone consultations, but has no documentation. He referenced that the attorney fees associated were high and he didn’t feel it was a warranted expense at the time.

Andrew attorney(s) concluded:

Artists Draw Road is a public road and not private, and the HOA has no authority to control or close it. (pursuant to ARS 33 1818).

The HOA failed to follow its own bylaws, including giving proper meeting notices and posting minutes “in a timely manner”.

The HOA misrepresented its ownership of the road to the Forest Service.
The gate closure was done secretly (discretely?) and in bad faith.

Andrew's attorney warned that if the HOA doesn't reverse its actions his "client and others will pursue any and all legal action available to complete the opening of the road and seek any other available remedy." He asked the board to pause any enforcement until ownership of the road is clearly proven through official deeds, not emails

Jim asked to make a comment. "The roadway is not closed."

Tim McQueen – spoke of his concern that we are setting a precedent by having the gate at the lower entry (to ADR) and asked - is that gate going away now?
Gary answered, I don't feel like we should spend the money to take it down, That (lower) gate is not locked and has been there for nine years

Brian stated that back in 2016 he asked if we could put gates up to slow down the traffic. After the road was opened the board agreed to put a gate up to slow the traffic. He stated that the road is only 10 feet wide not meeting county standards.

Kelly tagged on to Brian's comment, the gate was installed as a compromise in 2016 to address the issues hoping to achieve the desired outcome of the community.

Dan Stone inquired whether the HOA owns the road or the county and "if the HOA closes access to forest, shouldn't it be voted on by whole HOA, because it affects all members. He added, it does get noisy."

Gary has a question for members present: "One very strong opinion (is the) HOA has no rights to do anything with the road. If the membership votes to close it. Does that change anyone's opinion if we own the road?" Andrew "Doesn't advocate doing anything we don't have a legal right to do." If the HOA does own the road and the members voted to close the gate Andrew said he could live with that.

Brad Miller – Empathized with those who live on that road. Brad made a point that not everyone races on the road. What about those who follow the rules? Can the members have access to the forest there? Gary – According to the FS no one is allowed privatized access to the forest including foot traffic and horses (per the FS). The entrance has to be opened completely or totally closed. Meadow road as an option was reviewed.

Tanner Perkins – "There's truly a misunderstanding or lack of clarity on the ownership of the road. Are we at a point where we can hire an attorney" to find out where responsibility lies. Tanner spoke that, "That it bothers him that we continue to fight over this.

Kelly asked to address that – I was here on board in 2016. We went through a lot in 2016 when this first came up. The FS came to us and said you have to close that gate or you are going to lose that road. We didn't want to lose our road. We dug into it and did pay an attorney down here

to give us a ruling and they came back and said it is our road. We did spend a LOT of time on that. He said he will see if we can find the letter. We felt we had a firm grasp on it at the time. Jim said the letter should be on the BAC computer.

Kelly apologized, He had to drop off (out of meeting) and said, "Jim has my proxy vote."

Shane spoke that he was on the board when the whole thing transpired in 2016. He said the FS said at our meeting (in 2016) that they took this issue to their legal department and they deemed that it was a private road and it was actually illegal for there to be any opening to the forest and that they were going to close it and put a six foot fence across it. Shane said we put a pause on everything at that point. Then we removed the blocks because the board felt they were a liability and didn't want someone running into them. The FS did back track and did nothing.

Shane thanked Tanner for his comments which really rang home to him because he received personal threats and threats against his horses because he made the motion to leave it closed and let it play out. He said the amount of backlash he took was insane and crazy.

I don't know what the solution is, I just know it is a problem that needs to be addressed.

Gary said "We are all looking for a solution, and if there is a solution we aren't currently looking at, we're open to that, bring it to us and we will consider it."

Jim said, "My opinion is that we ought to close it because of what was discussed. My opinion would be the opposite if it was the only access to the forest."

Tony Steffes said we need to find out if it is public or private. And if it's private it should be a BAC vote not what you think you should be able to do with it. Why didn't the FS act on it?

Andrew Gillett asked if there was a member vote in 2016. Gary asked Jim and Denise, Yes, the vote was to open the gate.

Gary said there was no one else has requested to speak at this time.

There is a motion and second to keep the gate closed at this time.

Gary asked for a roll call vote

Jim - yes

Kelly's proxy - yes per Jim

Joe - yes

Brian - yes

Tanner - no

Gary- yes

Tally five yes votes and one no vote. Motion carries.

Gary - for those members present, when we come up with the letter from the FS we will share it with you. Basically, he feels it is important to pursue this further and is open to seeking new definite written information.

Brian made a motion to adjourn the meeting and Jim seconded it. Meeting adjourned at 6:24 pm.