

Buckskin Artists Community, Inc.

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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 this board 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 a few things. 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 pursuing 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 the road 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, the day the gate was closed, three weeks ago today. Brian added that the traffic overall has been really quiet, it's actually been really nice. Several people have come up to see if the gate is open. Brian also noted the Navajo County Sheriff has been called twice. * once, for people coming up to his house yelling and screaming absurdities at him. *second occasion was when one group came up with 3 quads and a jeep racing up and down the road. Brian stated this is what they are trying to prevent. Brian added it's been peaceful except when the instances listed above.

Joe Kemp asks, "My whole thing is... 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 other than what he said at the meeting whenever on the 12th. "I can reiterate but that's still my position."

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 not in this meeting but he will read a letter (before the vote) from the county public works that was sent to us in 2016 stating that the HOA is the sole owner of Artists Draw Road. Andrew said he has worked with an attorney and found out the road is deeded to the county not the HOA. He said we need to consider we are closing a road that we don't have rightful ownership of, impacting the public and opening ourselves up to liability and legal action. He is concerned with the associated costs and how the HOA would pay for any claims.

Gary asked to read the letter with Andrew's ok and read the letter from Navajo County dated 04/01/2016. See attached. Andrew asked that the letter be posted on the website.

Andrew asked for any legal documentation for members to review from the attorneys

Gary spoke with from August to December. Gary said he does not have any letters or notes from the couple of phone consultations he and Brian had with the lawyers. Andrew asked that this letter and legal documentation be posted to the website. Gary relayed that phone consultations were not written documentations. Gary referenced that the attorney fees associated were high and the board didn't feel it was a necessary expense at the time. Gary said the attorney retainer fee was \$10,000 and we didn't want to spend that if we didn't need to.

Andrew presented the attorneys thoughts on their review.

Artists Draw Road is a dedicated public road and it is not a private roadway. As such the Buckskin Artists homeowners Association has no legal authority to regulate a public roadway, pursuant to ARS 33 1818.

... In addition to the illegal closing of public roadway for which the HOA has no power to regulate, the HOA failed to follow its own bylaws, establish a policy in booking a law firm in conducting its business. Some of the examples they found are as follows but not limited to:
Failing to follow meeting notice requirements - notice was not properly provided for Feb. & March meetings

Intentionally misrepresenting or deceiving the members by not posting meeting minutes in a timely manner for February and March

The president of the board acted in bad faith and may have committed fraud by misrepresenting to the forest service that the HOA owned or had any right to regulate ADR

HOA acted in bad faith by the discreetly closing the gate before the members could be made aware of the decision

Andrew said, "The illegal closing of ADR has personally impacted myself and many others in the community."

"If the HOA does not reverse itself my client and others will pursue any and all legal action available to complete the opening of the road and seek any other available remedy."

Andrew capped the above with: this is just what one law group found within a few days with information from our website, reviewing the deeds and public documentation. What are we going to do if the greater public sues us. Do we have a legal fund to pay for that? Do we have insurance that will legally represent us? Andrew just asks the board to answer the questions the members have asked and reverse the action until we can clearly demonstrate who owns the roadway. through deeds not through emails. That's it."

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

Andrew - I think you or we ??? misrepresented how we govern that road to the FS and asked them to close their gate.

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? If I deem my road not safe, is the HOA going to put a gate up on my road as well, at their expense?

Gary- To answer your question until the board decides to take that gate down, 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...the roadway itself is not closed while the FS gate at the top is locked.

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 – Does the HOA actually own the road or is it a county road 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 here. 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.

Brad Miller – Empathized with those that live on that road. All the comments he has heard is that everybody races on that road, that is not accurate. We have always been respectful on the road and have not gone over five mph. Now, (we are) forced to go another way. 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 – No one is allowed to have their own privatized access to the forest including foot traffic and horses (per the FS). No, the whole thing has to be opened completely or totally closed. Meadow road as an option was reviewed.

Tanner Perkins, newer home owner and board member. Truly a misunderstanding or lack of clarity on the ownership of the road. Battling back and forth. Are we at a point where we can hire an attorney to find out where whose responsibility lies. Tanner spoke of how as a board member, he is supposed to be an advocate of the community and 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 can do what we wish with it. It is within our rights to ask the FS to permanently close the gate at the top. Kelly said he went back to find that letter in an email and couldn't open it. Said he will see if we can find the letter from the past president. He we felt like we had a firm grasp on it. We weren't just blindly flying off the handle here. We weren't just shooting from the hip. We did spend a LOT of time on that. He said he will see if we can find that letter. 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 and said 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 took the blocks out of the way 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 of personal threats he received because he made the motion to leave it closed and let it play out. The amount of backlash he took was insane and crazy.

Shane said for those people who don't think that the road is a problem - I live right there by the gate at the bottom of the hill. People threatened to hurt my horses, threatened to poison my horses and I had personal threats. Half of the summer my horses are sweating all day because they are dealing with all the people who come running down that road - the two strokes and side by sides with their radios blasting. Every time they squeal by my house, my horses are running in circles. 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. Also, he said it's a huge conflict of interest for Brian and Gary as president and vice president as it is personal benefit to gain (as they live on that section of ADR) looking from the outside in. 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 keep it open (the gate open) and put a gate at the bottom. (Actually, this writer, Denise misspoke, the gate had nothing to do with the vote. The lower gate was placed at the bottom in August 2016).

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

Tanner with question still researching, still going down the road

Gary this does not limit us from having further discussion in the future or researching and running down other options I believe as a board, we need to stay open to that.

Brian - yes

Tanner - no

Gary- yes

Tally five yes votes and one no vote. Motion does carry yes as for the time being per Gary Gary said for those members present, we will look into this further with legal advice and see if we can come up with the letter that was mentioned earlier and provide that to you guys if and

when more information becomes available we will address that. I do feel it is important maybe even seeking new definite written information on that we will pursue that further.

Gary asked for a motion to adjourn Brian made motion

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

Amy, we will get it down to less than 6 pages! . Overall, the traffic has been really nice has been peaceful, very nice

Denise I feel that the section where Andrew spoke needs to be condensed as well in a similar fashion that I did with the rest, these are just my opinions to shorten it up minutes are not meant to be word for word, but state the essence of what was said.